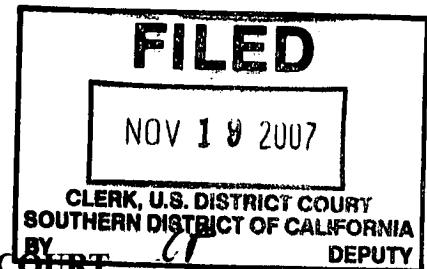


MAURA LARKINS
1935 Autocross Court
El Cajon, CA 92019
619 444 0065
Defendant pro se



UNITED STATES DISTRICT COURT
Southern District of California

1. On October 5, 2007, an action was commenced against defendant by STUTZ, ARTIANO, SHINOFF & HOLTZ, APC in SUPERIOR COURT OF THE STATE OF CALIFORNIA, FOR THE COUNTY OF SAN DIEGO (Central Division).

2. On October 21, 2007 service was made on defendant of a summons and complaint in the above-mentioned defamation action.

3. On November 16, 2007 defendant filed an answer to the complaint, and served it on plaintiff.

4. Copies of the above-mentioned complaint, summons and answer are attached to this notice. All process, pleadings and orders in the case are attached, pursuant to 28 USC 1446. These consist of the complaint, the proof of service of

1 the complaint, the defendant's answer, and the proof of service of defendant's
2 answer.

3 5. Since this removing defendant is the only named defendant in this
4 action, no written consent from any other defendant is required in this removal.
5

6 6. This Notice of Removal is timely filed within thirty days of Plaintiff's
7 service on me of the aforementioned complaint on October 21, 2007.
8

9 7. This notices all parties that the above-entitled state court case has been
10 removed to the United States District Court in accordance with 28 USC 1441,
11 1442, 1443, 1446.
12

Basis for Removal at 28 USC 1441, 1442, 1443, 1446

Federal Question Jurisdiction

First Amendment Right

15 It appears from the plaintiff's complaint that this is a civil action that
16 arises under the First Amendment to the Constitution of the United States because
17 defendant has a right to speak publicly about matters of public interest,
18 specifically, the actions of public entities, and their employees and officers and
19 lawyers. Defendant has spoken out about Plaintiff's successful efforts to help
20 public entities hide behind attorney confidentiality in order to cover up
21 wrongdoing.
22

23 Not coincidentally, the instant First Amendment freedom of speech case
24 arose out of a grievous violation of defendant's First Amendment right to petition
25 for redress of grievances, when defendant was fired in May 2002 specifically for
26 filing a lawsuit at Chula Vista Elementary School District ("CVESD") in March
27
28

1 2002. Plaintiff Stutz Artiano Shinoff & Holtz ("SASH") was the law firm
2 provided by San Diego County Office of Education Joint Powers Authority to
3 CVESD in that case. SASH apparently instructed CVESD to violate the law by
4 firing plaintiff less than two months after she filed the lawsuit, then SASH
5 pressured CVESD employees to commit perjury and abused the discovery process
6 (see exhibits in defendant's ANSWER TO COMPLAINT, which is attached to
7 this NOTICE). The Superior Court of California threw out defendant's lawsuit
8 after three years because defendant failed to file a specific motion to compel, even
9 though the court admitted that plaintiff appeared to have abused the discovery
10 process. There appears to be an overwhelming bias against in pro per litigants in
11 San Diego state courts.

12 The California Court of Appeal also has failed to enforce California state
13 laws when school districts violate those laws (*Mary Anne Weegar v. Sweetwater*
14 *Union High School District, James T. Carter v. Escondido Union High School*
15 *District*), and has at the same time failed to enforce the Constitution of the United
16 States. Instead, the Court of Appeal protects dysfunctional public entities that
17 devote public resources to keeping individuals in power, often by channeling
18 public money to defense lawyers such as SASH who help cover up the truth.

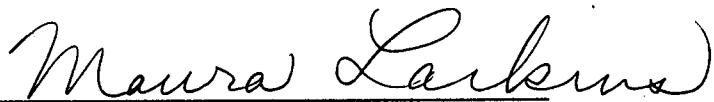
19 Defendant Maura Larkins filed an appeal in a related case in the Court of
20 Appeal, and shortly thereafter she informed opposition counsel of her action. The
21 next day the California Court of Appeal called up defendant Larkins and said it
22 would not file her case. Larkins informed the Court of Appeal that the case had
23 already been filed, and it would be a felony to remove the case from that file. The
24
25
26
27

1 Court of Appeal conceded that defendant was in the right, but has not revealed
2 how many other in pro per litigants have been hoodwinked by such attempts to
3 undermine the justice system.

4 The United States can not continue to benefit from democracy and
5 continued economic progress without respect for the law, particularly when
6 violations of law are undermining our educational system. The nations of the
7 world send their best and brightest students to graduate schools in the United
8 States, but our own kindergarten through twelfth-grade educational system is
9 mired in inertia and failure, in part because public entity lawyers such as SASH
10 abuse the justice system and violate the law to protect individuals in power who
11 put politics first and education a distant second.

12 WHEREFORE, defendant prays that the above action now pending
13 against her in the Superior Court of California, County of San Diego, be removed
14 therefrom to this Court.

15 November 19, 2007

16 
17 Maura Larkins
18 Maura Larkins, defendant in pro per

FILED
CIVIL BUSINESS OFFICE 2
CENTRAL DIVISION

1 **STUTZ ARTIANO SHINOFF & HOLTZ**
2 *A Professional Corporation*
3 Ray J. Artiano, Esq. (State Bar No. 88916)
4 Jeffrey P. Wade, Jr., Esq. (State Bar No. 196066)
5 Richard E. Romero, Esq. (State Bar No. 247056)
 2488 Historic Decatur Road, Suite 200
 San Diego, CA 92106-6113
 Tel: (619) 232-3122
 Fax: (619) 232-3264

2007 OCT -5 PM 4:42

CLERK-SUPERIOR COURT
SAN DIEGO COUNTY, CA

6 Attorneys for Plaintiff, STUTZ ARTIANO SHINOFF & HOLTZ, APC

**SUPERIOR COURT OF THE STATE OF CALIFORNIA
FOR THE COUNTY OF SAN DIEGO - CENTRAL BRANCH**

11 STUTZ ARTIANO SHINOFF & HOLTZ,
APC,

Case No. 37-2007-00076218-CU-DE CTI

Plaintiff,

**COMPLAINT FOR DAMAGES FOR
DEFAMATION AND REQUEST FOR
PUNITIVE DAMAGES**

MAURA LARKINS, and DOES 1-100,
inclusive.

Defendant

[Jury Trial Demanded]

Plaintiff hereby alleges as follows:

20 1. Plaintiff, Stutz Artiano Shinoff & Holtz, APC (hereinafter "SASH") was at all
21 times mentioned herein a professional corporation registered in California and authorized to
22 practice law in the States of California and Nevada, with offices located in Los Angeles, Orange
23 County, Temecula and San Diego, California, and Las Vegas Nevada.

24 2. SASH is informed and believes and thereon alleges that Defendant Maura Larkins
25 was at all times mentioned herein an individual and a resident of the County of San Diego, State
26 of California, where the injury occurred.

27 | //

3. SASH is ignorant of the true names and capacities of the defendants sued herein as Does 1 through 100, inclusive, and therefore sues these defendants by such fictitious names pursuant to Code of Civil Procedure section 474. SASH will amend this complaint to allege their true names and capacities when ascertained. SASH is informed and believes and thereon alleges that each of these fictitiously named defendants is responsible in some manner for the occurrences herein alleged and that SASH's injuries as herein alleged were proximately caused by the aforementioned defendants.

4. SASH is informed and believes and on that basis alleges that at all relevant times each defendant is or was the employee, agent, partner or representative of each other defendant, was at all times acting within the course and scope of that relationship, and acted with the permission, approval, consent and/or ratification of all other defendants.

5. Jurisdiction in this matter is proper as all parties are citizens of California and the amount in controversy exceeds the value or sum of \$5,000.00.

6. Venue in this matter is proper within the Superior Court, County of San Diego, as a substantial part of the acts and omissions giving rise to SASH's claims occurred within the County of San Diego, State of California. The injuries and damages sustained by SASH, as more fully set forth herein, occurred in the County of San Diego, State of California. The conduct of the defendants, and each of them, occurred and directly impacted SASH within the County of San Diego, State of California.

GENERAL ALLEGATIONS

7. In or about approximately December of 2006, SASH learned that Defendant Maura Larkins had created a website entitled www.mauralarkins.com, also known as the San Diego Education Report. It is unknown when Defendant started the website.

8. On or about March 12, 2002, Defendant filed a complaint for damages against Richard T. Werlin, Gretchen Donndelinger, Joe Ellen Hamilton, Ellen R. Smith, Linda M. Watson, Michelle Leon-Scharmach, Lynne Margaret Sallans, Libia S. Gil, and Chula Vista Elementary School District.

9. SASH represented each of the named defendants, as well as the Chula Vista Elementary School District, during the course of the litigation. The matter was ultimately resolved in favor of the defendants and against Defendant Larkins on March 16, 2005. As a result of this lawsuit, Defendant Larkins was ordered to pay \$3,124.68.

10. SASH is unaware of the date that Defendant's website, www.mauralarkins.com, was created. Defendant's website, however, contains articles dated from May 18, 2006, referencing SASH.

11. When searching the internet using the search term “stutz artiano,” Defendant’s website, www.mauralarkins.com/stutzartiano, is located.

12. Defendant's website, www.mauralarkins.com, contains numerous defamatory statements regarding SASH and its attorneys, which defamatory statements were made with negligence, malice, oppression, fraud, and/or willful/knowing disregard of the truth and have harmed SASH's reputation, property, business, trade, profession, and occupation.

1.

FIRST CAUSE OF ACTION

(Defamation Per Se)

13. SASH realleges and incorporates by reference paragraphs 1-12 as though fully set forth herein.

14. The “homepage” for www.mauralarkins.com, entitled “San Diego Education Report,” contains a “link” titled “Stutz Artiano & Shinoff.” Once a person “clicks” on the Stutz Artiano & Shinoff link, several articles authored by Defendant appear. The homepage also contains numerous other references to SASH and its attorneys.

15. On the website, Defendant has a section entitled “Judges and Prosecutors are getting tired of lawyers who violate the law,” wherein Defendant makes the statement that “Education Law Firms Slammed by Federal Judge: Lozano, Smith uses same practices as Stutz, Artiano, Shinoff & Holtz.” Defendant’s statement attempts to liken SASH to the firm of Lozano Smith and makes the factual assertion that SASH and Lozano Smith engage in the same

1 practices. Defendant points out that the Fresno-based Lozano Smith firm was sanctioned by a
2 federal judge for "repeated misstatements of the record, frivolous objections to plaintiff's
3 statement of facts, and repeated mischaracterizations of the law." The federal judge's published
4 decision made no reference to SASH yet Defendant, with negligence, malice, oppression, fraud,
5 and/or willful/knowing disregard of the truth, made the factual assertion that SASH engages in
6 the same practices as Lozano Smith. These statements imply to the reader that SASH engages
7 in unprofessional and unethical conduct and lacks professional competence or integrity in its
8 chosen profession.

9 16. Within the same article, Defendant states that "Stutz, Artiano, Shinoff & Holtz
10 shares the following characteristics with the law firm in the Moser case," followed by a
11 numbered list of characteristics, the first of which is that "A culture of misrepresentation and
12 deception exists at Stutz Artiano & Shinoff [sic]." Defendant made this factual statement with
13 negligence, malice, oppression, fraud, and/or willful/knowing disregard of the truth. This
14 statement implies to the reader that SASH engages in unprofessional and unethical conduct and
15 lacks professional competence or integrity in its chosen profession.

16 17. Defendant continues in the article by stating that "the firm [referring to SASH]
17 clearly suffers from a lack of professionalism or a lack of understanding of the law." This
18 statement states and suggests a fact, that SASH is unprofessional and lacks an understanding of
19 the law. Defendant made this factual statement with negligence, malice, oppression, fraud,
20 and/or willful/knowing disregard of the truth. This statement tells the reader that SASH engages
21 in unprofessional and unethical conduct and lacks professional competence or integrity in its
22 chosen profession.

23 18. Defendant continues with the statement that "Many of STUTZ's filings cannot be
24 interpreted as anything other than bad-faith attempts to mislead the court, obscure the real facts,
25 and to obstruct and/or harass the plaintiff, either to wear down the plaintiff or to win a victory
26 that is clearly unjustified by either the facts or the law." Defendant made this factual assertion
27 regarding the nature of SASH's filings with negligence, malice, oppression, fraud, and/or
28

1 willful/knowing disregard of the truth. This statement implies to the reader that SASH engages
2 in unprofessional and unethical conduct and lacks professional competence or integrity in its
3 chosen profession.

4 19. Defendant next makes the statement that "While isolated errors or misstatements
5 might be excused, given the size of the record, the sheer volume of misstatements, the only
6 reasonable inference that can be drawn is that Daniel Shinoff, Jeffery Morris, Kelly Angell and
7 many other Stutz lawyers intended to obstruct at every step and stand education law, as well as
8 labor law, the Penal Code, and the constitutions of California and the United States, on their
9 heads." Defendant made this factual statement with negligence, malice, oppression, fraud,
10 and/or willful/knowing disregard of the truth. In making this statement, Defendant is suggesting
11 to the reader that it is a fact that SASH and its lawyers obstruct the law and implies that SASH
12 engages in unprofessional and unethical conduct and lacks professional competence or integrity
13 in its chosen profession. This statement also implies that SASH has engaged in violations of the
14 law.

15 20. Collectively, the article entitled "Judges and Prosecutors are getting tired of
16 lawyers who violate the law" takes excerpts from the *Moser v. Bret Harte Union High School*
17 *District* case and replaces the name of the Lozano Smith firm or its individual attorneys with
18 the names of SASH and its attorneys, suggesting that SASH was involved in the *Moser* case or
19 otherwise sanctioned by the federal court. Defendant made these factual statements with
20 negligence, malice, oppression, fraud, and/or willful/knowing disregard of the truth. In making
21 these statement, Defendant imputes to SASH unprofessional and unethical actions and implies
22 that SASH and its lawyers engage in unprofessional and unethical conduct and lack professional
23 competence or integrity in their chosen profession. These statement also imply that SASH has
24 engaged in violations of the law.

25 21. In another section of Defendant's website, entitled "WHEN PUBLIC ENTITIES
26 HIRE UNETHICAL LAWYERS," Defendant asserts that: "STUTZ works hard to make sure
27 that LOTS of tax money goes to lawyers who:

- 1 A) prevent legitimate investigations of problems in schools; and
2 B) make sure that tax dollars do not go to victims.”

3 Defendant made these factual statement with negligence, malice, oppression, fraud, and/or
4 willful/knowing disregard of the truth. These statements tell the reader that SASH engages in
5 unprofessional and unethical conduct and lacks professional competence or integrity in its
6 chosen profession.

7 22. The same “article” further asserts that “Public officials who want to keep the
8 public in the dark call on Dan Shinoff and Mark Breese to keep witnesses quiet and to finesse
9 the paperwork.” This statement is an assertion of fact—that public officials call Dan Shinoff when
10 they want to engage in inappropriate and unlawful conduct such as tampering with
11 witnesses—and is made with negligence, malice, oppression, fraud, and/or willful/knowing
12 disregard of the truth. This statement tells the reader that SASH and its attorneys engage in
13 unprofessional and unethical conduct and lack professional competence or integrity in their
14 chosen profession.

15 23. Another “article” on Defendants website is entitled “GET OUT OF JAIL FREE
16 CARD?” and states that “The lawyers provided by SDCOE Joint Powers Authority to Chula
17 Vista Elementary School District, Daniel Shinoff, Jeffery Morris, and Kelly Angell, as well as
18 Stutz partner Ray Artiano, violated California law in case after case.” Defendant made this
19 factual statement with negligence, malice, oppression, fraud, and/or willful/knowing disregard
20 of the truth. This statement tells the reader that SASH engages in unprofessional and unethical
21 conduct, lacks professional competence or integrity in its chosen profession, and engages in
22 violations of the law.

23 24 In yet another section of Defendant’s website, Defendant asserts that “Daniel
24 Shinoff, Kelly Angell Minnehan, Jeffery Morris and their law firm, Stutz, Artiano, Shinoff &
25 Holtz took \$100,000s of taxpayer dollars to cover up crimes at Chula Vista Elementary School
26 District.” Defendant made this factual statement with negligence, malice, oppression, fraud,
27 and/or willful/knowing disregard of the truth. This statement tells the reader that SASH engages

1 in unprofessional and unethical conduct, lacks professional competence or integrity in its chosen
2 profession, and engages in violations of the law.

3 25. Another article on Defendant's website is entitled "Why did Gallagher suddenly
4 leave his own firm, Stutz Gallagher in 2003?" Plaintiff makes the factual assertion that Robert
5 Gallagher left SASH in December 2003 after Maura Larkins "wrote a letter to the firm in
6 December 2003 detailing obstruction of justice by Daniel Shinoff and Kelly Angell". Daniel
7 Shinoff is an owner of SASH and Kelly Angell [Minnehan] is a former associate with the firm.
8 Defendant made this factual statement with negligence, malice, oppression, fraud, and/or
9 willful/knowing disregard of the truth. This statement tells the reader that SASH and its
10 attorneys engage in unprofessional and unethical conduct, lack professional competence or
11 integrity in their chosen profession, and engage in violations of the law.

12 26. In another article, entitled "Thirty former Mira Costa College officials agree with
13 SD Education Report," Defendant asserts that "Officials complain about channeling enormous
14 amounts of public funds to Attorney Daniel Shinoff." Defendant goes on to state that "My own
15 personal opinion is, if a public entity is doing business with Daniel Shinoff of Stutz, Artiano,
16 Shinoff & Holtz, that public entity is probably involved in dirty business." Despite being
17 phrased as an opinion, Defendant's latter statement suggests a fact, that SASH and its attorneys
18 are involved in inappropriate and illegal businesses. Defendant made these factual statements
19 with negligence, malice, oppression, fraud, and/or willful/knowing disregard of the truth. These
20 statements tell the reader that SASH engages in unprofessional and unethical conduct, lacks
21 professional competence or integrity in its chosen profession, and engages in violations of the
22 law.

23 27. On her website, Defendant also states, in two different locations, that "Shinoff
24 keeps important documents locked up in his files, and presents perjured testimony." Defendant
25 made this factual statement with negligence, malice, oppression, fraud, and/or willful/knowing
26 disregard of the truth. This statement tells the reader that SASH and its attorneys engage in
27
28 ///

1 unprofessional and unethical conduct, lack professional competence or integrity in their chosen
2 profession, and engage in violations of the law.

3 28. Although not required to do so, SASH asked Defendant to cease and desist in her
4 website and publications in a letter dated August 6, 2007. Defendant did not respond but instead
5 posted the letter on her website.

6 29. Defendant admits on her website that she is the author of the offending website.

7 30. All of he statements outlined above were published by Defendant Maura Larkins
8 on her website, www.mauralarkins.com.

9 31. None of the above-referenced defamatory publications by Defendant against SASH
10 are true.

11 32. The above defamatory statements were and are reasonably understood as assertions
12 of fact and not as opinions. Each of these false defamatory publications were negligent,
13 recklessly, intentionally, fraudulently, and oppressively published in a manner equaling malice
14 and abuse of any alleged privilege that may or may not exist.

15 33. Each of these publications by Defendant Larkins was made with knowledge that
16 no investigations supported the unsubstantiated and obviously false statements. The defendant
17 published these statements willingly and knowing them to be false and unsubstantiated by any
18 reasonable investigation. These acts of publication were known by Maura Larkins to be
19 negligent to such a degree as to be reckless, if not intentional. Not only did Defendant have no
20 reasonable basis to believe these statements, but she also had no belief in the truth of these
21 statements, and in fact knew these statements to be false.

22 34. The above complaint of publications by defendants, and each of them, were made
23 with malice, hatred and ill will towards SASH, with a design and intent to injure SASH, SASH's
24 good name, its reputation, employment, and employability in the future. Defendants, and each
25 of them, published these statements not with an intent to protect any interest intended to be
26 protected by any privilege but with negligence, recklessness, and/or an intent to injure SASH and
27 destroy its reputation; therefore, no privilege existed to protect any of the defendants from
28

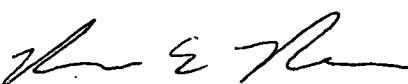
1 liability for any of these aforementioned publications or re-publications. The publications by
2 Defendant were made with hatred, ill will and with the intent to injure, as to entitle SASH to
3 punitive damages.

4 35. As a proximate result of the publications and re-publications of these defamatory
5 statements by defendants, and each of them, SASH has suffered injury to its personal, business,
6 and professional reputation including suffering embarrassment, humiliation, and significant
7 economic loss in the form of lost wages and future earnings, all to SASH's economic detriment,
8 and general damages in an amount in excess of \$100,000, according to proof at trial.

9 **WHEREFORE**, Plaintiff prays for judgment against Defendant as follows:

- 10 1. For general and special damages according to proof at trial;
11 2. For punitive damages according to proof at trial;
12 3. For attorney fees and costs;
13 4. For costs of suit herein incurred; and
14 5. For such other and further relief as this Court may deem proper.

15 DATED: October 5, 2007

16 By: 

17 Ray J. Artiano, Esq.

18 Jeffrey P. Wade, Jr., Esq.

19 Richard Romero, Esq.

20 Attorneys for Plaintiff, STUTZ ARTIANO
21 SHINOFF & HOLTZ A Professional
22 Corporation

SUMMONS
(CITACION JUDICIAL)

NOTICE TO DEFENDANT:**(AVISO AL DEMANDADO):**

Maura Larkins, and DOES 1-100, inclusive

SUM-100

FOR COURT USE ONLY
(SOLO PARA USO DE LA CORTE)
CIVIL BUSINESS OFFICE 2
CENTRAL DIVISION

2007 OCT -5 PM 4:42

CLERK-SUPERIOR COURT
SAN DIEGO COUNTY, CA**YOU ARE BEING SUED BY PLAINTIFF:****(LO ESTÁ DEMANDANDO EL DEMANDANTE):**

Stutz Artiano Shinoff & Holtz, APC

You have 30 CALENDAR DAYS after this summons and legal papers are served on you to file a written response at this court and have a copy served on the plaintiff. A letter or phone call will not protect you. Your written response must be in proper legal form if you want the court to hear your case. There may be a court form that you can use for your response. You can find these court forms and more information at the California Courts Online Self-Help Center (www.courtinfo.ca.gov/selfhelp), your county law library, or the courthouse nearest you. If you cannot pay the filing fee, ask the court clerk for a fee waiver form. If you do not file your response on time, you may lose the case by default, and your wages, money, and property may be taken without further warning from the court.

There are other legal requirements. You may want to call an attorney right away. If you do not know an attorney, you may want to call an attorney referral service. If you cannot afford an attorney, you may be eligible for free legal services from a nonprofit legal services program. You can locate these nonprofit groups at the California Legal Services Web site (www.lawhelpcalifornia.org), the California Courts Online Self-Help Center (www.courtinfo.ca.gov/selfhelp), or by contacting your local court or county bar association.

Tiene 30 DÍAS DE CALENDARIO después de que le entreguen esta citación y papeles legales para presentar una respuesta por escrito en esta corte y hacer que se entregue una copia al demandante. Una carta o una llamada telefónica no lo protegen. Su respuesta por escrito tiene que estar en formato legal correcto si desea que procesen su caso en la corte. Es posible que haya un formulario que usted pueda usar para su respuesta. Puede encontrar estos formularios de la corte y más información en el Centro de Ayuda de las Cortes de California (www.courtinfo.ca.gov/selfhelp/espanol), en la biblioteca de leyes de su condado o en la corte que le quede más cerca. Si no puede pagar la cuota de presentación, pida al secretario de la corte que le dé un formulario de exención de pago de cuotas. Si no presenta su respuesta a tiempo, puede perder el caso por incumplimiento y la corte le podrá quitar su sueldo, dinero y bienes sin más advertencia.

Hay otros requisitos legales. Es recomendable que llame a un abogado inmediatamente. Si no conoce a un abogado, puede llamar a un servicio de remisión a abogados. Si no puede pagar a un abogado, es posible que cumpla con los requisitos para obtener servicios legales gratuitos de un programa de servicios legales sin fines de lucro. Puede encontrar estos grupos sin fines de lucro en el sitio web de California Legal Services, (www.lawhelpcalifornia.org); en el Centro de Ayuda de las Cortes de California, (www.courtinfo.ca.gov/selfhelp/espanol) o poniéndose en contacto con la corte o el colegio de abogados locales.

The name and address of the court is:

(El nombre y dirección de la corte es):

Superior Court of California
330 W. Broadway
Hall of Justice
San Diego, CA 92101CASE NUMBER:
(Número del Caso): **37-2007-00076218-CU-DF-CT**

The name, address, and telephone number of plaintiff's attorney, or plaintiff without an attorney, is:

(El nombre, la dirección y el número de teléfono del abogado del demandante, o del demandante que no tiene abogado, es):

Ray J. Artiano, Esq. 619/232-3122. 619/232-3264

Stutz Artiano Shinoff & Holtz
2488 Historic Decatur Road, Suite 200
San Diego, CA 92106-6113DATE:
(Fecha) **OCT - 5 2007**Clerk, by **C. SCHAEFFER**, Deputy
(Secretario) (Adjunto)

(For proof of service of this summons, use Proof of Service of Summons (form POS-010).)

(Para prueba de entrega de esta citación use el formulario Proof of Service of Summons, (POS-010)).

NOTICE TO THE PERSON SERVED: You are served1. as an individual defendant.2. as the person sued under the fictitious name (specify):3. on behalf of (specify):under: CCP 416.10 (corporation) CCP 416.60 (minor) CCP 416.20 (defunct corporation) CCP 416.70 (conservatee) CCP 416.40 (association or partnership) CCP 416.90 (authorized person) other (specify):4. by personal delivery on (date): **10/21/07**

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF CALIFORNIA

)
STUTZ, ARTIANO SHINOFF &
HOLTZ, APC, plaintiff
)
vs.
)
MAURA LARKINS, defendant
)

)

Case No. _____

DECLARATION OF SERVICE

Person Served:

Ray Artiano

Date Served:

11/19/07

I, the undersigned declare under penalty of perjury that I am over the age of eighteen years and not a party to this action; that I served the above named person the following documents:

NOTICE OF REMOVAL

in the following manner: (check one)

- 1) By personally delivering copies to the person served.
- 2) By leaving, during usual office hours, copies in the office of the person served with the person who apparently was in charge and thereafter mailing (by first-class mail, postage prepaid) copies to the person served at the place where the copies were left.
- 3) By leaving copies at the dwelling house, usual place of abode, or usual place of business of the person served in the presence of a competent member of the household or a person apparently in charge of his office or place of business, at least 18 years of age, who was informed of the general nature of the papers, and thereafter mailing (by first-class mail, postage prepaid) copies to the person served at the place where the copies were left.
- 4) By placing a copy in a separate envelope, with postage fully prepaid, for each address named below and depositing each in the U.S. Mail at El Cajon, California

on November 19, 2007

*Stutz, Artiano Shinoff & Holtz
2488, Historic Decatur Road, Suite 200
San Diego, CA 92106*

Executed on November 19, 2007 at El Cajon, California

Robert W. Larkins
Robert W. Larkins

ATTORNEY OR PARTY WITHOUT ATTORNEY (Name, State Bar number, and address):		FOR COURT USE ONLY
Maura Larkins 1935 Autocross CT El Cajon, CA 92019 TELEPHONE NO.: 619 444 0065 E-MAIL ADDRESS (Optional): ATTORNEY FOR (Name): Defendant in pro per		CIVIL PUSUIT 3 DIVISION 7 2007 NOV 16 P 4:36 CLERK'S OFFICE
SUPERIOR COURT OF CALIFORNIA, COUNTY OF San Diego STREET ADDRESS: 330 Broadway MAILING ADDRESS: 330 Broadway CITY AND ZIP CODE: San Diego, CA 92101 BRANCH NAME: Central-Hall of Justice		
PETITIONER/PLAINTIFF: STUTZ ARTIANO SHINOFF & HOLTZ, APC RESPONDENT/DEFENDANT: MAURA LARKINS		CASE NUMBER: NOV 16 '07 PM 4:19 37-2007-00076218-CU-DF-CTL
PROOF OF SERVICE BY FIRST-CLASS MAIL—CIVIL		

(Do not use this Proof of Service to show service of a Summons and Complaint.)

1. I am over 18 years of age and not a party to this action. I am a resident or employed in the county where the mailing took place.
2. My residence or business address is:
4566 Nebo DR Apt A
La Mesa, CA 91941
3. On (date): **Nov. 16, 2007** I mailed from (city and state):
the following documents (specify):

Answer to Complaint

- The documents are listed in the Attachment to Proof of Service by First-Class Mail—Civil (Documents Served) (form POS-030(D)).
4. I served the documents by enclosing them in an envelope and (check one):
 - a. depositing the sealed envelope with the United States Postal Service with the postage fully prepaid.
 - b. placing the envelope for collection and mailing following our ordinary business practices. I am readily familiar with this business's practice for collecting and processing correspondence for mailing. On the same day that correspondence is placed for collection and mailing, it is deposited in the ordinary course of business with the United States Postal Service in a sealed envelope with postage fully prepaid.
 5. The envelope was addressed and mailed as follows:

- a. Name of person served:
Ray Artiano
b. Address of person served:

Stutz Artiano Shinoff & Holtz
2488 Historic Decatur Rd. Suite 200
San Diego, CA 92106-6113

- The name and address of each person to whom I mailed the documents is listed in the Attachment to Proof of Service by First-Class Mail—Civil (Persons Served) (POS-030(P)).

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

Date: November 16, 2007

Toni Chase

(TYPE OR PRINT NAME OF PERSON COMPLETING THIS FORM)

(SIGNATURE OF PERSON COMPLETING THIS FORM)

SEARCHED
INDEXED
SERIALIZED
FILED
NOV 16 2007
CLERK OF THE COURT

1 MAURA LARKINS
2 1935 Autocross Court
3 El Cajon, CA 92019
4 619 444 0065

Defendant in pro per

NOV 16 '07 PM 4:19

7 SUPERIOR COURT OF THE STATE OF CALIFORNIA
8

9 COUNTY OF SAN DIEGO

10 STUTZ ARTIANO SHINOFF
11 & HOLTZ, APC,
12 Plaintiff,

13 vs.

14 MAURA LARKINS,
15 and DOES 1 through 100, inclusive,
16 Defendants.

) Case No. 37-2007-00076218-CU-DF-CTL
17) Judge: Linda B. Quinn
18) Dept: 74
19)
20) MAURA LARKINS' VERIFIED
21) ANSWER TO UNVERIFIED
22) COMPLAINT
23)
24) TRIAL DATE: NOT SET
25) CASE FILED: OCTOBER 5, 2007
26)
27)

28 COMES NOW the defendant, MAURA LARKINS, for herself alone, and answers
the allegations of the above-entitled complaint, affirms, denies, and alleges as follows:

This complaint constitutes malicious prosecution by a plaintiff who is a public figure and is itself guilty of egregious defamation of defendant. Plaintiff's awareness of its own guilt is made clear by its refusal to produce even one of the documents requested for its deposition. Two representatives of plaintiff, Ray Artiano and Daniel Shinoff, came to the deposition of Stutz, Artiano, Shinoff & Holtz, APC ("SASH"), but they walked out after two hours, having refused to answer questions (see Exhibit 1--rough

1 draft of November 8, 2007 deposition of SASH). Hours later, Daniel Shinoff failed to
2 show up for his deposition at all, without serving an objection beforehand. It is clear that
3 this lawsuit is an attempt to use malicious prosecution to stifle defendant's First
4 Amendment right to publish material on a website to inform the public of matters of
5 public concern.

6

7 **ANSWER TO paragraphs 1-12 GENERAL ALLEGATIONS**

8 1. This answering defendant admits, on information and belief, the allegations in
9 paragraph 1.

10 2. This answering defendant admits the allegations in paragraph 2.

11 3. This answering defendant lacks information and belief to either admit or deny
12 the allegations in paragraph 3, and on that basis, this answering defendant states that the
13 allegations contain legal conclusions solely within the purview of the court and on that
14 basis denies the allegations.

15 4. This answering defendant denies all the allegations in paragraph 4, since she
16 works alone, but is flattered by Stutz' apparent belief that there are 100 people who
17 approve of defendant's actions, and that each of these people is her employee, employer,
18 agent, partner or representative. Apparently SASH thinks of defendant as some sort of
19 Internet mogul.

20 5. This answering defendant admits that she is a citizen of California. This
21 answering denies that the amount in controversy exceeds \$5,000.00, and presents Exhibit
22 1, the deposition of the plaintiff taken on November 8, 2007, in which the plaintiff
23 admitted that it knows nothing of any financial damages it suffered.

24 6. This answering defendant lacks information and belief to either admit or deny the
25

1 allegations in paragraph 6, and on that basis, this answering defendant states that the
2 allegations contain legal conclusions solely within the purview of the court and on that
3 basis denies the allegations.

7. This answering defendant lacks information and belief to either admit or deny the
allegations in paragraph 7, and on that basis, this answering defendant states that the
allegations contain legal conclusions solely within the purview of the court and on that
basis denies the allegations.

9 8. This answering defendant admits the allegations in paragraph 8.

9. This answering defendant admits that SASH represented defendants name in
paragraph 8. If the allegations in paragraph 9 are intended to mean that any finding of
fact regarding the causes of action was made in the case described in paragraph 8, this
answering defendant denies the allegations. In fact, the lawsuit was dismissed as a result
of MAURA LARKINS' failure to file a motion to compel SASH to conform to the rules
of discovery when, *as the judge noted, there was evidence that SASH was abusing the*
discovery process. LARKINS paid only court costs after the case was dismissed.

8 10. This answering defendant assumes that the allegations in paragraph 10 are
9 probably true.

11. This answering defendant admits the allegation in paragraph 11.

2 12. This answering defendant denies all the allegations in paragraph 12. There are
3 no defamatory statements on defendant's website.

ANSWER TO FIRST CAUSE OF ACTION

14. This answering defendant admits the allegations in paragraph 14.

15. This answering defendant admits the allegations in the first three sentences in

1 paragraph 15, however, since the statements are true and SASH is the legal representative
2 for many public entities, defendant's statements are protected speech under the First
3 Amendment to the Constitution, Bill of Rights, giving citizens the right to speak publicly
4 about government and matters of public interest. Since SASH is often in the media
5 spotlight, it and its lawyers are public figures who act on behalf of government. In fact,
6 SASH sometimes acts in place of the officials of those public entities (as when Dan
7 Shinoff, not the college president, ordered the removal of Julie Hatoff from MiraCosta
8 College). This answering defendant denies the allegations in the fourth sentence of
9 paragraph 15, and lacks information and belief to either admit or deny the allegations in
10 the final sentence in paragraph 15, and on that basis, this answering defendant states that
11 the allegations contain legal conclusions solely within the purview of the court and on
12 that basis denies the allegations.
13

14 16. This answering defendant **admits** the allegations in the first sentence in
15 paragraph 16, however, since the statements are true and SASH is the legal representative
16 for many public entities, defendant's statements are protected speech under the First
17 Amendment to the Constitution, Bill of Rights, giving citizens the right to speak publicly
18 about government and matters of public interest. Since SASH is often in the media
19 spotlight, it and its lawyers are public figures who act on behalf of government. This
20 answering defendant **denies** the allegation in the second sentence of paragraph 16, and
21 **lacks** information and belief to either admit or deny the allegations in the final sentence
22 in paragraph 16, and on that basis, this answering defendant states that the allegations
23 contain legal conclusions solely within the purview of the court and on that basis denies
24 the allegations.
25

1 17. This answering defendant **admits** the allegations in the first sentence of
2 paragraph 17, however, since the statements are true and SASH is the legal representative
3 for many public entities, defendant's statements are protected speech under the First
4 Amendment to the Constitution, Bill of Rights, giving citizens the right to speak publicly
5 about government and matters of public interest. Since SASH is often in the media
6 spotlight, it and its lawyers are public figures who act on behalf of government. This
7 answering defendant **denies all** the allegations in the remaining sentences of paragraph
8

9 17. The complainant has blithely changed defendant's word "or" to the word "and,"
10 resulting in false allegations.

11 18. This answering defendant admits the allegation in the first sentence of
12 paragraph 18, however, since the statements are true and SASH is the legal representative
13 for many public entities, defendant's statements are protected speech under the First
14 Amendment to the Constitution, Bill of Rights, giving citizens the right to speak publicly
15 about government and matters of public interest. Since SASH is often in the media
16 spotlight, it and its lawyers are public figures who act on behalf of government. This
17 answering defendant **denies** the allegation in the second sentence of paragraph 18, and
18 lacks information and belief to either admit or deny the allegations in the final sentence
19 in paragraph 18, and on that basis, this answering defendant states that the allegations
20 contain legal conclusions solely within the purview of the court and on that basis denies
21 the allegations.

22 19. Defendant admits the first and second sentences of paragraph 19, and denies the
23 rest of the paragraph.

24 20. Paragraph 20 is a flight of fancy which no reader with good reading

1 comprehension would gather from reading defendant's website. This answering
2 defendant denies all the allegations in paragraph 20.

3 21. Defendant admits the first and second sentences of paragraph 21, and
4 denies the rest of the paragraph.

5 22. Defendant admits the first and second sentences of paragraph 22, and
6 denies the rest of the paragraph.

7 23. Defendant admits the first and second sentences of paragraph 23, and
8 denies the rest of the paragraph.

9 24. Defendant admits the first and second sentences of paragraph 24, and
10 denies the rest of the paragraph.

11 25. Defendant denies that her website states that Robert Gallagher left his
12 own law firm in December 2003. Defendants's website merely states that he left
13 after she sent a complaint to the firm in December 2003. Defendant learned in early
14 2004 that Mr. Gallagher had left, when Kelly Angell announced that fact to the
15 judge. Defendant suspects that Mr. Gallagher demanded that Judge Nevitt be
16 informed that Gallagher was no longer associated with that case or Stutz law firm.
17

18 26. Defendant admits the first and second sentences of paragraph 26, and
19 denies the rest of the paragraph.

20 27. Defendant admits the first sentence of paragraph 27, and denies the rest
21 of the paragraph.

22 28. As to first sentence, Defendant is informed and believes that Stutz was
23 legally required to demand a retraction within 20 days. As to second sentence,
24 Defendant denies this allegation, since she responded with an immediate phone call
25

1 to Mr. Ray Artiano, and followed up with emails and a fax letter (Exhibit 1).

2 Defendant notes that it appears that Mr. Artiano has hidden facts about this case
3 from Mr. Romero.

4 29. Defendant denies the allegation in paragraph 29. Defendant is the author
5 of her website, but denies that the website is offending. Defendant has used her
6 own name as the name of the website ("mauralarkins.com), and has placed her
7 name all over the site, and clearly states many facts on her website, but does not
8 agree that any of these statements are admissions.

9
10 30. With the exception of the incorrect quote in paragraph 17, this answering
11 defendant admits that statements outlined were published on her website.

12 31. Defendant denies the allegation in Paragraph 31.

13 32. Defendant denies all the allegations in Paragraph 32.

14 33. This answering defendant denies all the allegations in paragraph 33.

15 34. This answering defendant denies all the allegations in paragraph 34.

16 35. Defendant denies the allegation in Paragraph 35. In its deposition, SASH
17 admitted that it knows of no financial damages to itself.

18 36. All allegations not specifically admitted are hereby denied.

19
20 **AFFIRMATIVE DEFENSES**

21
22 **FIRST AFFIRMATIVE DEFENSE**

23
24 (Plaintiff is a public figure)

25 As a separate affirmative defense to the COMPLAINT FOR DAMAGES
26 FOR DEFAMATION on file herein, this answering defendant is informed and
27 believes and thereon alleges that plaintiff waived its right to privacy to the issues in

1 question by being a public figure. (Johnson v. Harcourt, Brace, Jovanovich, Inc.
 2 (1974) 43 Cal. App. 3d 880m 892, 118 Cal. Rptr. 370).

3 SASH and all others mentioned on defendant's website became public
 4 figures either by achieving such pervasive fame or notoriety that they became
 5 public personages for all purposes and in all contexts, and/or by voluntarily
 6 injecting themselves or by being drawn into a particular public controversy, in
 7 which they became public figures for the limited issues relating to the controversy
 8 (Kinsey v. Macur (1980) 107 Cal. App. 3d 265, 273, 165 Cal. Rptr. 608).

9
 10 Daniel Shinoff and SASH have acted in place of public officials, and as
 11 agents for public officials, usurping to a remarkable degree the functions and
 12 obligations of public officials in public entities. Shinoff not only has acted as the
 13 public face of public entities, but has made decisions and presented those decisions
 14 as if he himself were a public official.

15
SECOND AFFIRMATIVE DEFENSE

16
 17 (Defendant's statements about a public figure were not published with malice)

18 As a separate affirmative defense to the COMPLAINT FOR DAMAGES
 19 FOR DEFAMATION on file herein, this answering defendant alleges that the
 20 publication complained of in plaintiff's complaint was not published by the
 21 defendant either with knowledge that it was false or with reckless disregard of the
 22 truth of the statements. Because plaintiff is a public figure, defendant is protected
 23 by constitutional privilege from defamation actions in which the statements were
 24 not published with actual malice.

25
THIRD AFFIRMATIVE DEFENSE

1 (Defendant did not publish statements about public official with malice)

2 As a separate affirmative defense to the COMPLAINT FOR DAMAGES
3 FOR DEFAMATION on file herein, this answering defendant is informed and
4 believes and thereon alleges that the publication complained of in plaintiff's
5 complaint concerned plaintiff's official conduct as legal representative of public
6 entities and their elected officials, acting in lieu of and on behalf of those public
7 entities and public officials. The statement was not published by the defendant
8 either with knowledge that it was false or with reckless disregard of the truth of the
9 statements. It thus is protected by constitutional privilege.

11 **FOURTH AFFIRMATIVE DEFENSE**

12 **(Truth)**

13 As a separate affirmative defense to the COMPLAINT FOR DAMAGES
14 FOR DEFAMATION on file herein, this answering defendant is informed and
15 believes and thereon alleges that

17 The statements complained of in plaintiff's complaint were not false. To the
18 contrary, they were completely truthful in that

19 1) Lozano, Smith uses the same practices as Stutz, Artiano, Shinoff & Holtz,
20 specifically, repeated misstatements of the record, frivolous objections to plaintiff's
21 statements of facts, and repeated mischaracterizations of the law.

23 2) SASH engages in unprofessional and unethical conduct and lacks
24 professional competence or integrity in its chosen profession.

25 3) A culture of misrepresentation and deception exists at Stutz, Artiano &
26 Holtz (sic) and/or Stutz, Artiano Shinoff & Holtz.

- 1 4) The firm (SASH) clearly suffers from a lack of professionalism or a lack of
- 2 understanding of the law.
- 3 5) Many of STUTZ's filings cannot be interpreted as anything other than bad-faith
- 4 attempts to mislead the court, obscure the real facts, and to obstruct and/or harass
- 5 the plaintiff, either to wear down the plaintiff or to win a victory that is clearly
- 6 unjustified by either the facts or the law.
- 7 6) While isolated errors or misstatements might be excused, given the size of the
- 8 record, the sheer volume of misstatements, the only reasonable inference that can
- 9 be drawn is that Daniel Shinoff, Jeffery Morris, Kelly Angell and many other
- 10 Stutz lawyers intended to obstruct at every step and stand education law, as well
- 11 as labor law, the Penal Code, and the constitutions of California and the United
- 12 States, on their heads.
- 13 7) SASH has engaged in violations of the law.
- 14 8) Defendant has never suggested that SASH was involved in the Moser case, or that
- 15 SASH has been sanctioned by a federal court. Defendant has certainly implied
- 16 that SASH should be sanctioned by some court.
- 17 9) STUTZ works hard to make sure that LOTS of tax money goes to lawyers who:
- 18 A) prevent legitimate investigations of problems in schools; and
- 19 B) make sure that tax dollars do not go to victims.
- 20 10) Public officials who want to keep the public in the dark call on Dan Shinoff and
- 21 Mark Bresee to keep witnesses quiet and to finesse the paperwork. Defendant
- 22 possesses a wealth of testimony and documentation to prove this statement.
- 23
- 24
- 25
- 26
- 27
- 28

- 1 11) SASH has a habit and custom of having parents of students arrested, while, in
2 fact, SASH itself is guilty of egregious wrongdoing that qualifies for incarceration
3 under California law.
- 4 12) The lawyers provided by SDCOE Joint Powers Authority to Chula Vista
5 Elementary School District, Daniel Shinoff, Jeffery Morris, and Kelly Angell, as
6 well as Stutz partner Ray Artiano, violated California law in case after case.
7 Defendant informed Ray Artiano of obstruction of justice by Daniel Shinoff and
8 his assistants, and Ray Artiano worked hard to cover up that wrongdoing instead
9 of putting an end to it. Bob Gallagher left the firm at that time, quite possibly
10 because he could not tolerate the violations of law by lawyers in the firm.
- 11 13) Daniel Shinoff, Kelly Angell Minnehan, Jeffery Morris and their law firm, Stutz,
12 Artiano, Shinoff & Holtz took \$100,000s of taxpayer dollars to cover up crimes at
13 Chula Vista Elementary School District.
- 14 14) Robert Gallagher left his own law firm after Defendant sent a complaint in
15 December 2003 to the firm about obstruction of justice on the part of its lawyers.
16 Defendant learned in early 2004 that Mr. Gallagher had left, when Kelly Angell
17 announced that fact to the judge at a hearing in defendant's case. Defendant
18 suspects that Mr. Gallagher wanted Judge William Nevitt to be informed that
19 Gallagher was no longer associated with that case or Stutz law firm.
- 20 15) Defendant assumes that some of Mr. Shinoff's clients do not wish to violate
21 contracts or laws, or do harm to others. Defendant can only assume, of course,
22 since she does not have information about all the public entities working with Mr.
23 Shinoff. However, judging by Mr. Shinoff's methods as observed in her own and
24

1 quite a few other cases, defendant has come to believe that Mr. Shinoff is generally
2 called in by SDCOE-JPA when there is something to hide. Defendant can only
3 guess at the percentage of Mr. Shinoff's cases which involve dirty business by a
4 public entity, of course, since she does not know all the public entities working with
5 Mr. Shinoff, nor all the cases they are involved in. Nevertheless, defendant has
6 come to hold the personal opinion that if a public entity is doing business with
7 Daniel Shinoff of Stutz, Artiano, Shinoff & Holtz, that the laws of probability
8 would predict that, more often than not, the public entity is involved in some dirty
9 business.

10 16) In its deposition on November 8, 2007, SASH claimed that it had not
11 destroyed or hidden the documents that defendant has been requesting for more
12 than five years. Therefore, SASH itself admits that Shinoff keeps important
13 documents locked up in his files.

14 17) Shinoff presented a good deal of perjured testimony in my case. The proof
15 is in the attached depositions, which may be compared and contrasted with each
16 other, and documents in the record.

17 Truth is a complete defense to an action for defamation (Draper v. Hellman
18 Commercial Trust & Sav. Bank (1928) 203 Cal. 26, 34, 263 P. 240; Swaffield v.
19 Universal Ecsco Corp. (1969) 271 Cal. App. 2d 147, 164, 76 Cal. Rptr. 680).

20 Defendant affirmatively asserts that all statements and comments by Defendant
21 about Plaintiff were true and thus, can not be the basis for a defamation action.
22 Defendant's statements are supported by the deposition transcripts attached,
23 specifically:
24
25
26

- 1 Exhibit 1: Rough draft
2 Deposition of Stutz, Artiano Shinoff & Holtz November 8, 2007
3 Exhibit 2 Deposition of Commander Sam Gross,
4 Sheriff's Department of Santa Barbara, California Nov. 17, 2004
5 Exhibit 3: Deposition of Virginia ("Gina") Boyd, former President of Chula
6 Vista Elem. Education Association (CVE) Mar. 22, Oct. 11, 2004
7 Exhibit 4: Deposition of Margaret ("Peggie") Myers,
8 President of Chula Vista Educators (CVE) Nov. 29, 2004
9 Exhibit 5: Deposition of Richard T. Werlin, Assist. Superintendent Human
10 Res., Chula Vista Elem. School Dist. (CVESD) Sept. 4, 2002
11 Exhibit 6: Deposition of Gretchen Donndelinger,
12 Principal of Castle Park Elementary, CVESD Sept. 10, 2002
13 Exhibit 7: Deposition of Robin Colls Donlan Nov. 4, 2004
14 Exhibit 8: Deposition of Maura Larkins Oct. 28, Nov. 1, Nov. 2, 2004
15 Exhibit 9: Deposition of Linda Mae Watson April 30, 2004
16 Exhibit 10: Deposition of Teresa Coffey Nov. 8, 2004
17 Exhibit 11: Deposition of Karen Snyder Nov. 9, 2004
18 Exhibit 12: Deposition of Nikki Perez Nov. 29, 2004
19 Exhibit 13: Deposition of Michelle Scharmach Nov. 10, 2004
20 Exhibit 14: Deposition of Richard Denmon Nov. 30, 2004
21 Exhibit 15: Deposition of Jo Ellen Hamilton Sept. 10, 2002
22 Exhibit 16: Deposition of attorney Elizabeth Schulman July 16, 2004
23 Exhibit 17: Deposition of Maura Larkins by Stutz, Artiano, Shinoff &
24
25
26
27
28

1 Holtz Oct. 25, 2004 and Nov. 11, 2004
2

3 **FIFTH AFFIRMATIVE DEFENSE:**
4

5 **(GOOD MOTIVE – FAIR COMMENT)**
6

7 As a separate affirmative defense to the COMPLAINT FOR DAMAGES
8 FOR DEFAMATION on file herein, this answering defendant is informed and
9 believes and thereon alleges that
10

11 All statements and comments made by Defendant about Plaintiff were made
12 by the Defendant with good motive and were fair comments made as a private
13 citizen about education and politics in San Diego, along with many other matters of
14 public concern, exercising her right of free speech, discussing matters of public
15 importance, as a concerned citizen of the community. All statements complained
16 of in plaintiff's complaint were made by defendant in good faith, honestly, and not
17 maliciously, in that defendant researched many hundreds of documents and news
18 reports, meticulously took notes of meetings and phone calls, and deposed over a
19 dozen individuals, while interviewing many more individuals, as well as having
20 first hand knowledge of many of the events she reported on.
21

22 **SIXTH AFFIRMATIVE DEFENSE**
23

24 **(PRIVILEGE)**
25

26 As a separate affirmative defense to the COMPLAINT FOR DAMAGES
27 FOR DEFAMATION on file herein, this answering defendant is informed and
28 believes and thereon alleges that the allegedly defamatory statement of which
plaintiff complains related to a matter of public concern and thus is constitutionally
protected in the absence of fault. The defendant was not negligent in publishing the
14

1 statements complained of. Therefore, defendant is protected from liability by
2 constitutional privilege.

3 The matters addressed by Defendant concerning Plaintiff concern matters
4 which affect the interest of the general public. These statements were made in good
5 faith with the proper motives of informing the public, informing elected officials, to
6 poor performance and of negative developments. Therefore the Defendant's
7 statements are protected by both qualified and conditional privilege.

8

9 **SEVENTH AFFIRMATIVE DEFENSE**

10 **LACK OF DAMAGE CAUSED BY DEFENDANT**

11 As a separate affirmative defense to the COMPLAINT FOR DAMAGES
12 FOR DEFAMATION on file herein, this answering defendant is informed and
13 believes and thereon alleges that no act or omission on the part of Defendant either
14 caused or contributed to whatever injury (if any) the Plaintiff may have sustained.
15 Plaintiff's own actions have caused any loss of business it might have suffered. In
16 its November 8, 2007 deposition, SASH admitted that it knows of no financial
17 losses caused by defendant's website (Exhibit 1). In its deposition, SASH even had
18 trouble remembering (or admitting) that it had claimed over \$100,000 damages in
19 its complaint.

20

21 **EIGHTH AFFIRMATIVE DEFENSE**

22 **(FAILURE TO MITIGATE DAMAGES)**

23

24 As a separate affirmative defense to the COMPLAINT FOR DAMAGES
25 FOR DEFAMATION on file herein, this answering defendant is informed and
26 believes and thereon alleges that Plaintiff has failed to properly mitigate its

1 damages by ceasing its unethical and illegal behavior. For example, this lawsuit is
2 itself an action that is likely to harm plaintiff's reputation as it is an effort to stifle
3 discussion protected by the First Amendment to the Constitution of the United
4 States.

5 WHEREFORE, defendant prays:

- 6 a. that plaintiff take nothing by way of its Complaint for Damages;
7 b. recover costs of suit herein incurred; and
8 c. such other relief as the court may deem proper.

9
10 DATED: November 16, 2007

Maura Larkins)

11
12 Maura Larkins, defendant *in pro per*

13
14 VERIFICATION

15 I, Maura Larkins, am a defendant in the above-entitled action. I have read the
16 foregoing ANSWER TO COMPLAINT FOR DAMAGES FOR DEFAMATION
17 and know the contents thereof. The same is true of my own knowledge, except as to
18 those matters which are therein alleged on information and belief, and as to those
19 matters, I believe it to be true.

20 I declare under penalty of perjury that the foregoing is true and correct.
21

22
23 DATED: November 16, 2007

Maura Larkins)

24 Maura Larkins, defendant *in pro per*

STUTZ ARTIANO SHINOFF & HOLTZ, APC v. MAURA LARKINS
Case No. 37-2007-00076218-CU-DF-CTL

TABLE OF EXHIBITS

Exhibit 1:	Rough draft Deposition of Stutz, Artiano Shinoff & Holtz November 8, 2007
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Exhibit 15:	Deposition of Jo Ellen Hamilton Sept. 10, 2002
Exhibit 16:	Deposition of attorney Elizabeth Schulman July 16, 2004
Exhibit 17:	Deposition of Maura Larkins by Stutz, Artiano, Shinoff & Holtz Oct. 25, 2004 and Nov. 11, 2004

SUPERIOR COURT OF THE STATE OF CALIFORNIA
IN AND FOR THE COUNTY OF SAN DIEGO

STUTZ, ARTIANO, SHINOFF &
HOLTZ, APC,

Plaintiffs,

vs.

MAURA LARKINS, and DOES 1 through
100, inclusive,

Defendants.

CASE NO.: 37-2007-00076218-CU-DF-CTL

VIDEOTAPED DEPOSITION OF RAY ARTIANO

Taken at San Diego, California

November 8, 2007

BONNIE G. BREEN,
CSR NO. 5582

1

1

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DEPOSITION OF RAY ARTIANO PAGE

3

November 8, 2007

4

5 EXAMINATION

6 By Ms. Larkins 5

7

EXHIBITS

8

1 Deposition Notice 6

9

10 2 NCTimes.com Website Article dated 34
10-25-2007

11 3 Page from Website San Diego Education 40
Report, MauraLarkins.com

12

13 4 Subpoena to Testify Before Grand Jury 45

14 INSTRUCTIONS NOT TO ANSWER

15 PAGE LINE

16 20 19
26 13
17 27 18
28 7
18 32 17
34 10
19 43 11
45 12
20 53 16

21
22 NOTICE OF ADJOURNMENT OF DEPOSITION

23 PAGE LINE
54 9

24

25

2

1 DEPOSITION OF RAY ARTIANO

2 Pursuant to Notice to take deposition on the
3 8th day of November, 2007, commencing at the hour of
4 10:19 a.m., at 1620 Fifth Avenue, Suite 770, in the City
5 of San Diego, County of San Diego, State of California;
6 before me, Bonnie G. Breen, Certified Shorthand Reporter
7 in and for the State of California, personally appeared:

8 RAY ARTIANO,

9 who, called as a witness by the Defendants, being by me
10 first duly sworn, was thereafter examined as a witness in
11 said cause.

12 APPEARANCES

13 FOR THE PLAINTIFFS:

14 STUTZ, ARTIANO, SHINOFF & HOLTZ
BY: DANIEL SHINOFF
15 2488 Historic Decatur Road, Suite 200
San Diego, California 92106-6113
16 (619) 232-3122

17 FOR THE DEFENDANT:

18 MAURAL LARKINS
In Pro Per
19 1935 Autocross Court
El Cajon, California 92019
20 (619) 444-0065

21

22 VIDEOTAPED By:

23 VIDEOTRACK/DEBORAH L. BURKE
401 West A Street, Suite 135
24 San Diego, California 92101
(619) 234-1990

25

2 beginning of tape one of the deposition of Ray Artiano.
3 The case caption is Stutz, Artiano, Shinoff & Holtz, APC,
4 versus Larkins. My name is Deborah L. Burke. I'm a
5 certified legal video specialist and a Notary public for
6 the State of California, County of San Diego. I'm a
7 partner in Video Track, located at 401 West "A" Street,
8 Suite 135, San Diego, California. The court reporter
9 today is Bonnie Breen of San Diego Court Reporting.
10 Today's date is November 8th, 2007; and it is now 10:19
11 a.m. This video recording is being taken at San Diego
12 Court Reporting, located at 1620 Fifth Avenue, Suite 770,
13 San Diego, California.

14 Please be aware that the video and audio
15 recording will take place at all times throughout this
16 deposition, unless all parties agree to go off the
17 record; at which time, I will announce the time that we
18 are going off the record, and the recording devices will
19 then be stopped.

20 Would counsel please introduce yourselves.

21 MR. SHINOFF: My name is Daniel Shinoff; and
22 I'm appearing on behalf of the law firm as plaintiff in
23 this case.

24 MS. LARKINS: My name is Maura Larkins, and I'm

25 the defendant.

4

1 THE VIDEOTAPE TECHNICIAN: Would the court
2 reporter please swear in the deponent.

3 (Whereupon, Ray Artiano, Plaintiff herein, was
4 duly sworn by the reporter.)

5 MR. SHINOFF: Just before we proceed with the
6 deposition, I would like the record to reflect that the
7 deposition subpoena for the person most knowledgeable
8 from the law firm was scheduled for 10:00 a.m. and that
9 the deposition did not start until 10:19, as the
10 videographer indicated; and the deposing party did not
11 arrive until 10:15. The depo was scheduled for ten.

12 EXAMINATION BY MS. LARKINS:

13 Q. Ready? Okay. So I'm asking you the questions,
14 right? Good morning.

15 A. Good morning.

16 Q. How are you feeling today?

17 A. I'm feeling fine.

18 Q. Can you think of any reason that you wouldn't
19 be able to give your best testimony today?

20 A. No.

21 Q. Okay. Uhm. My deposition subpoena asked for
22 documents. Did you bring documents today?

23 MR. SHINOFF: Yes. We did.

24 MS. LARKINS: Okay. Instead of handing them
25 all in a bunch, where it will be hard, I'm sure you can

1 figure out what they are faster than I can. Do you have
2 the bate stamped Document Number 5?

3 MR. SHINOFF: We have many bate stamped
4 documents in our office, and we were attempting to figure
5 out precisely what it was that you were looking for, but
6 we do have a bate stamped Document Number 5 dated April
7 26, 2001 from yourself to Mr. Worland.

8 MS. LARKINS: Okay. You know, I'm a little
9 confused here. Isn't Mr. Artiano supposed to be talking?

10 MR. SHINOFF: No, not right now. Not right
11 now, because you asked me about documents that are being

12 produced; and so, as counsel, I'm telling you what we
13 have produced.

14 MS. LARKINS: Okay.

15 MR. SHINOFF: We brought a series of documents
16 date stamped 1 through 70 -- or through 84.

17 (EXH. 1 was marked for identification.)

18 BY MS. LARKINS:

19 Q. Okay. I'd like to have this marked as Exhibit
20 Number 1. It is my notice of taking deposition and
21 request for production of documents. And here is a copy
22 for you, Mr. Artiano. Does this document look familiar
23 to you?

24 A. Yes, it does.

25 Q. Okay. Would you look at the second page. And

1 the first paragraph, can you read the bottom sentence,
2 the last sentence in the first paragraph.

3 A. The deposition may also be recorded through
4 such means as to provide the instant display of the

5 testimony as also authorized by CCP Section 2025(d).

6 Q. Excuse me. I'm sorry. I meant the paragraph
7 that is numbered one.

8 A. Well, the document speaks for itself. I'm not
9 here to read, ma'am.

10 Q. Okay. Well, I'm going to consider you a
11 hostile witness, and this is how I'm going to do it. I
12 will ask you if it says a certain thing. I'm going to
13 need my copy.

14 Mr. Artiano, on page 2, line 15 of Exhibit 1,
15 do you see the sentence, "The bate stamps begin with the
16 number 1, not 01 or 001, and continue through 87"?

17 A. Yes, I do.

18 Q. Okay. Do you have a document that is bate
19 stamped with a 5, not a 05 or a 005?

20 A. Not to my knowledge.

21 MR. SHINOFF: Nor do I.

22 BY MS. LARKINS:

23 Q. Well, that is very interesting. How about a
24 document that is bate stamped 06 -- 6, not 06?

25 A. Not to my knowledge.

1 MR. SHINOFF: Nor do I.

2 BY MS. LARKINS:

3 Q. Did you bring any of the documents that are
4 specifically numbered here in paragraph 1 on page 2 of
5 this exhibit?

6 A. Based on what we could make out from your
7 request, we had the documents gathered, which
8 Mr. Shinoff, my attorney, brought with him.

9 Q. Well, it would appear that either intentionally
10 or unintentionally, you ignored this last sentence in
11 this first document request. So I'm asking you, now that
12 I'm making it really clear to you that the documents I'm
13 talking about don't have any zeroes in front of the
14 single digits, did you bring any of those?

15 A. I just answered that.

16 Q. It's a yes or no answer.

17 A. I just answered that.

18 Q. Could you read back Mr. Artiano's last answer.

19 (Record read line 17 and then line 6 through
20 8.)

21 BY MS. LARKINS:

22 Q. Okay. Did you bring a document that is bate

23 stamped with a 9, not a 09?

24 A. Not to my knowledge.

25 Q. Did you bring a document that is bate stamped

1 09?

2 MR. SHINOFF: Yes.

3 BY MS. LARKINS:

4 Q. And what is that document, Mr. Artiano?

5 A. That document is a letter dated -- actually, it

6 is undated; although, there is a Chula Vista Elementary

7 School Human Resources stamp that says June 4th, 2002.

8 It is addressed to a Dr. Gill from Maura Larkins.

9 Q. And do you believe that the Maura Larkins who

10 wrote this letter is the person who is taking your

11 deposition right now?

12 A. I assume so.

13 Q. Well, why would you think that I would want a

14 copy of my own letter?

15 A. I have no idea what's in your mind, ma'am.

16 Q. I wanted a document that your law firm has been

17 refusing to produce for several years. I'm very

18 disappointed that you are still not producing it.

19 MR. SHINOFF: We'd be happy to produce whatever

20 we have. The problem is that you have filed multiple

21 lawsuits. And we have -- as you do, we have multiple

22 Beacon boxes of documents; and we used our best efforts

23 to try to determine exactly what you want, and this is

24 what we brought.

25 MS. LARKINS: Is it not true, Mr. Shinoff, that

1 you actually used your best efforts not to produce the

2 documents I requested?

3 MR. SHINOFF: That's not true. And I'm not

4 going to argue with you.

5 BY MS. LARKINS:

6 Q. Did you bring a bate stamped document 11 that

7 was not written by me?

8 MR. SHINOFF: We brought a bate stamped

9 document 11.

10 MS. LARKINS: Was it written by me?

11 MR. SHINOFF: I don't know. It has your
12 initials by it.

13 MS. LARKINS: Does it have my name on it?

14 MR. SHINOFF: It has your name on it, yes.

15 MS. LARKINS: Does it say "from Maura Larkins"?

16 MR. SHINOFF: It does.

17 MS. LARKINS: But you are not sure if it
18 actually is from Maura Larkins?

19 MR. SHINOFF: Only you could authenticate
20 whether that document is from you, but it appears to be
21 from you.

22 MS. LARKINS: Why would you produce a document
23 in this case that appears to be from me if you didn't
24 think it was from me?

25 MR. SHINOFF: Because you asked for bate stamp

2 MS. LARKINS: You wouldn't by any chance be
3 trying to perpetrate a fraud on the court by producing a
4 false document that wasn't really from me, that appeared
5 to be from me?

6 MR. SHINOFF: I would never perpetrate a fraud
7 upon the court. I know that you use language like that
8 without any consideration of what you are saying, but
9 bate stamp 11 is responsive to your document request, and
10 bate stamp 11 is here. So I would suggest that you move
11 forward with your documents and stop with the casting
12 personal aspersions. Take the deposition, please.

13 BY MS. LARKINS:

14 Q. Uhm. Mr. Shinoff -- Mr. Artiano, did you do a
15 search for the documents I asked for?

16 A. I had a paralegal do a search for the documents
17 which you asked for.

18 Q. You had a paralegal do the search?

19 A. Yes.

20 MS. LARKINS: Okay. May I look through the
21 documents?

22 MR. SHINOFF: Certainly.

23 MS. LARKINS: I believe that the documents that
24 you have here are completely separate, a completely

25 separate group of documents from the ones I wanted.

1 MR. SHINOFF: Well, I think you need to be
2 clearer then in terms of what you want.

3 MS. LARKINS: Mr. Shinoff, I faxed to Kelly
4 Angell the documents that you did produce. Well,
5 actually, you didn't produce them, but Parham Rajcic
6 produced them from my administrative hearing so that she
7 could easily determine what were the missing documents.

8 Your law firm has had years to produce these
9 documents; and, apparently, they must be very harmful to
10 your case or you would have produced them.

11 MR. SHINOFF: Well, you can entertain whatever
12 fantasy you wish to engage in; and I know that you are
13 prone to fantasies, but I respectfully disagree with your
14 characterization.

15 MS. LARKINS: Mr. Shinoff, did you seek a
16 protective order from discovery in my case when I sued
17 Chula Vista Elementary School District?

18 MR. SHINOFF: My deposition isn't being taken.

19 MS. LARKINS: Oh, that is really confusing.

20 Uhm. I have got to get more. I've got to get you
21 talking more, Mr. Artiano. I have got to remember that
22 it is not Mr. Shinoff's deposition being taken.

23 BY MS. LARKINS:

24 Q. Did your law firm, Mr. Artiano, seek one or
25 more protective orders in -- when I -- in the case when

12

1 you were defending the Chula Vista Elementary School
2 District and other associated defendants?

3 A. I have no idea.

4 Q. Okay. When did you first become aware of my
5 lawsuit against Chula Vista Elementary School District?

6 A. Probably when we discovered the defamatory
7 material that you had on your website, right about that
8 time.

9 Q. When I sued DOES for obstruction of justice,
10 and then I sought to name your firm as a DOE, your
11 secretary talked to me quite frequently about trying to

12 serve you. She would tell me that you weren't in. And I
13 remember one day in particular, she said you were in.

14 And then she called -- no, that you would be in at such
15 and such a time, and then half an hour before that, she
16 called and said that you had just left.

17 Do you have any memory of my trying to serve
18 you as a DOE as the representative of Stutz, Artiano?

19 A. No, ma'am.

20 Q. Do you normally have a pretty good memory?

21 A. I have an excellent memory.

22 Q. You have an excellent memory. Okay. I need to
23 find a document. I need to take a break. Is that okay
24 with everybody?

25 MR. SHINOFF: I want to stay on the record, but

1 you can look for your document.

2 BY MS. LARKINS:

3 Q. Uhm. Okay. Fine. Okay. What I'm looking for
4 is the motion that your law firm filed. What I'm looking
5 for is the motion that your law firm filed in that case

6 where I was -- I filed a complaint for obstruction of
7 justice against DOES; and your law firm got involved in
8 that.

9 A. Ma'am, I'm here to have my deposition taken.
10 I'm not here to listen to you make speeches. So please,
11 if you have questions that you would like to ask me, I
12 will be happy to answer them.

13 Q. Okay. Let me ask you this. Well, I will tell
14 you what, just before we go on to the motion that Kelly
15 Angell filed on behalf of Chula Vista School District,
16 apparently collecting taxpayers' money for doing it, when
17 Chula Vista School District was not a party in the case.

18 A. Ma'am, please ask me questions. Don't give
19 speeches.

20 Q. Well, gee, I would have thought that you really
21 didn't like to talk, to answer questions that much, since
22 you had Mr. Artiano doing most of your answers.

23 Okay. I do want to get and note your law
24 firm's involvement in the obstruction of justice case.

25 Let's get -- let's just finish this up and find

1 out if you produced any of the documents that were
2 requested. Okay.

3 MR. SHINOFF: We produced the documents that
4 were requested.

5 MS. LARKINS: So far, I haven't seen a single
6 document, but let's go on to Number 2.

7 MR. SHINOFF: There is a disconnect, obviously,
8 between what you wrote down and what you wanted to have.
9 So I believe that we did a reasonable, good faith search
10 to determine what documents were responsive to your
11 request for production.

12 MS. LARKINS: Did you read the last line in
13 this paragraph that is numbered one?

14 MR. SHINOFF: The paralegal was charged with
15 the responsibility for looking for the documents. So she
16 looked through multiple documents, and that's what she
17 found.

18 MS. LARKINS: Well, perhaps it's the
19 paralegal's fault. Perhaps she didn't read that
20 sentence.

21 MR. SHINOFF: She's a very fine paralegal.

22 MS. LARKINS: Well, this a very fine sentence.

23 It is very clear.

24 THE WITNESS: Ma'am, I'm not going to waste my

25 time here with your engaging in these types of

15

1 discussions. Just ask questions, please.

2 MS. LARKINS: Well, Mr. Shinoff, did you hear

3 that?

4 MR. SHINOFF: Yes, I did. And there are

5 provisions in the Code of Civil Procedure that prevent

6 depositions that are vexatious, that are harassing, that

7 are argumentative. You are held to the same standard as

8 a lawyer; and so you need to ask questions. That is what

9 the Discovery Act in the State of California is all

10 about.

11 You desire to engage in speeches. That's not

12 what the discovery process is about. So I respectfully

13 disagree with your approach. Mr. Artiano is here to

14 answer questions.

15 MS. LARKINS: Okay. Mr. Shinoff, you are

16 required to behave, as well as an in proper; and that
17 means that you should not be engaging in speeches, which
18 you just did.

19 MR. SHINOFF: Because I'm commenting on your
20 behavior, because I think it is violative of the Code of
21 Civil Procedure in the State of California.

22 MS. LARKINS: Well, that's exactly what I think
23 of your behavior. When you go on saying things like I
24 make statements without any consideration, which you said
25 today, or saying things like I know that you are prone to

1 fantasy, fantasies, I think that you are stepping outside
2 of a professional behavior, and I think that you need to
3 follow the suggestions that Mr. Artiano just made.

4 MR. SHINOFF: Is that a question?

5 MS. LARKINS: I'm not the deponent,
6 Mr. Shinoff.

7 MR. SHINOFF: No. You are the person who is
8 supposed to be posing the questions.

9 MS. LARKINS: Thank you. Okay. I want to --

10 apparently, you completely avoided all of this by blaming
11 it on your paralegal. And you avoided Number 1,
12 producing any of those documents.

13 Let's look at Number 2. Okay. Do you have
14 documents containing information regarding the dollar
15 amounts of payments from Chula Vista -- Chula Vista
16 Elementary School District?

17 MR. SHINOFF: No.

18 MS. LARKINS: Oh. Didn't you just earlier say
19 that you produced all the documents?

20 MR. SHINOFF: I said we produced the bate
21 stamped documents, yes.

22 MS. LARKINS: But on Number 2, you didn't
23 produce any of those?

24 MR. SHINOFF: That's correct.

25 MS. LARKINS: May I ask why?

1 MR. SHINOFF: Well, our objection is that they
2 are proprietary in nature.

3 MS. LARKINS: Okay. Did you produce documents
4 supporting your claim that my website has caused
5 financial losses to your firm?

6 MR. SHINOFF: We don't have specific documents
7 other than your website itself, and we have documents
8 from your website.

9 MS. LARKINS: I have no information on my
10 website about financial losses to you as a result of my
11 website.

12 MR. SHINOFF: It is our belief that your
13 website has interfered with prospective economic
14 advantage. It's our opinion that your website is
15 slanderous, per se.

16 MS. LARKINS: If it were false, it would be
17 slanderous, per se. I agree with you there. The only
18 problem is is that it's all true.

19 Do you consider -- do you consider yourself a
20 lawyer for a public entity when you work for Chula Vista
21 Elementary School District?

22 MR. SHINOFF: I think your deposition is of
23 Mr. Artiano.

24 MS. LARKINS: Oh, that is right. Boy.
25 BY MS. LARKINS:

1 Q. Do you feel left out, Mr. Artiano?

2 A. I just would like to get on with the deposition
3 if you intend to take my deposition.

4 Q. Let's try. Let's just hope that Mr. Shinoff
5 won't be talking quite so much.

6 Okay. Mr. Artiano, in your complaint against
7 me, you stated or your firm stated that I had cost you
8 \$100,000 or more. Do you have -- can you explain to me
9 how you came to that figure?

10 A. To which paragraph are you referring?

11 Q. I think it's right at the end of your
12 complaint.

13 A. Which paragraph specifically?

14 Q. If you let me look at that, I will find it for
15 you.

16 A. Well, this is my copy.

17 Q. You don't remember putting in your complaint
18 that you had losses of \$100,000 or more?

19 A. Ma'am, I just asked you to tell me which
20 paragraph you are referring to.

21 Q. Okay.

22 A. I'm happy to answer it.

23 Q. Mr. Artiano, I believe that the quality of your
24 memory is important. Could you tell me, do you remember
25 that, in the complaint that your law firm filed, and you

19

1 are representing that law firm, that you said that you
2 had \$100,000 or more of financial damages?

3 MR. SHINOFF: I'm going to object to the nature
4 of the question as being argumentative. You can answer
5 if you can.

6 THE WITNESS: Yes. In paragraph 35, it is
7 alleged that as a result of your defamatory statements
8 that we have suffered economic detriment and general
9 damages in an amount in excess of \$100,000.

10 BY MS. LARKINS:

11 Q. I notice that you did have to look through that
12 complaint to find that fact. I myself remembered it

13 without looking at the complaint.

14 A. I told you before. I'm not here to listen to
15 you give speeches. Just ask me questions.

16 Q. Okay. Let me just say, given what just
17 happened, Mr. Artiano, would you like to revise your
18 earlier statement that you have an excellent memory?

19 MR. SHINOFF: I'm going to object that the
20 question is argumentative. Don't respond to that.

21 BY MS. LARKINS:

22 Q. Okay. Is there any particular client that you
23 have lost as a result of my website that you know of?

24 A. I don't know at this time if there is any
25 particular client that we have lost as a result of your

1 defamatory statements.

2 Q. Mr. Artiano, they are only defamatory if they
3 are false.

4 MR. SHINOFF: Again, I'm going to object that
5 the question is argumentative as phrased; and I would

6 respectfully request that you ask a question.

7 BY MS. LARKINS:

8 Q. Okay. You say that you don't know at this
9 time. Why didn't you find out if you had lost a client
10 before you filed this suit saying that you had \$100,000
11 of damages?

12 A. You want me to answer that?

13 MR. SHINOFF: Sure. Go ahead.

14 THE WITNESS: Because of the defamatory
15 statements, which you have made on your website, it has
16 come to my knowledge that there have been a number of
17 individuals who have googled the name of the website.
18 And that, in turn, has led them to your San Diego, I'm
19 not sure what, San Diego Education Report Website.

20 And I know that it has caused concern on the
21 part of at least one attorney. I'm assuming that anyone
22 who googles us, as most clients and prospective clients
23 do, they'll come across your website and know nothing at
24 all about the author of the website and whether or not
25 the statements have any truth at all.

1 BY MS. LARKINS:

2 Q. If they knew more about the author of the
3 website, what would they know, that you seem to imply
4 that there is something to be known that isn't on my
5 website, I mean?

6 A. Well, what they would know is that the
7 statements, which you have made impugning the integrity
8 and character of the firm, are false.

9 In addition, I also know that, at least, at the
10 very least, one new attorney in our firm googled our
11 website prior to making a decision as to whether or not
12 he was going to join the firm, and then had to -- had to
13 check around after he saw the materials on your website
14 to determine who this person was and why these things
15 were being said so that he could determine whether or not
16 he should join our firm.

17 I assume that there are a number of prospective
18 candidates, as well as clients that we have, that do
19 exactly the same thing, come across the same information,
20 and it causes them concern.

21 Q. Okay. Well, it seems to me that you have done
22 a pretty good argument for saying that my website has not

23 harmed your firm. The only evidence you have is that

24 someone read my website and then came to your firm.

25 MR. SHINOFF: I'm going to object that the

1 question is -- the statement is argumentative. If you

2 could ask your next question, please.

3 BY MS. LARKINS:

4 Q. Okay. Is it your wish that people not check

5 around before they join your firm?

6 A. Is it my wish?

7 Q. Uh-huh. You seem to be complaining that this

8 prospective new attorney had to check around about you,

9 your firm, before he decided to join your firm. Is it

10 your wish that prospective attorneys not check around?

11 A. No. I think that anyone proposing any type of

12 relationship with a firm, whether it is a candidate or a

13 prospective client, do their due diligence. What

14 concerns me is that people have to deal with false

15 statements, which were made on your website.

16 Q. Well, I'd like to point out to you,

17 Mr. Artiano --

18 A. Don't point anything out to me, ma'am. Just

19 ask questions.

20 Q. Okay. Has any court of law decided that these

21 statements were false, the statements on my website were

22 false?

23 A. Has any court of law?

24 Q. Uh-huh.

25 A. This lawsuit was just filed.

23

1 Q. Uhm.

2 A. There will be -- there will be a determination

3 at the conclusion of this case that the statements on

4 your website were false.

5 Q. Is that your hope?

6 A. No. I know that to be the case.

7 Q. How do you know that?

8 A. Because I know that the statements, which you

9 have made, are false.

10 Q. Uhm. Okay. Let's get back. Uhm.

11 Mr. Artiano, do you think that someone in your
12 law firm may have destroyed evidence in my lawsuit
13 against Chula Vista Elementary School District?

14 A. I'm certain that no one in my law firm
15 destroyed any evidence.

16 Q. Do you think that someone may have hidden some
17 evidence?

18 A. I'm certain that no one has hidden evidence.

19 Q. Do you think that someone may have misplaced
20 it?

21 A. I have absolutely no idea as to whether or not
22 anyone misplaced documents.

23 Q. Well, wouldn't that be your best explanation
24 for why you don't have Document 05 to produce to me
25 today?

1 MR. SHINOFF: We did produce Document 05.

2 BY MS. LARKINS:

3 Q. I mean Document 5 without the zero. Isn't that
4 the best explanation for why you don't have Documents 5,
5 6 and 9 to produce to me today?

6 A. No. The best explanation is that your request
7 is extremely vague; and the paralegal did her best job in
8 trying to decipher what it was that you wanted.

9 Q. Uhm. Poor dear. Uhm. I -- maybe someone
10 should have helped her out.

11 Mr. Artiano, would you, yourself, give it a
12 try, to try to find these documents here, 5, 6, 9. And
13 then these other ones, apparently, they have the same
14 numbers as the ones that you have produced, but they are
15 from a different set.

16 MR. SHINOFF: Well, if you could be clearer in
17 terms of the documents that you are requesting, since
18 there are multiple lawsuits that you were involved in, we
19 would be happy to provide it in response to request for
20 production of documents.

21 MS. LARKINS: Is that your answer, too?

22 MR. SHINOFF: I'm responding to that question
23 as counsel for Mr. Artiano, because that is not an
24 appropriate question in a deposition. The question is
25 whether we will produce documents responsive to a request

1 for production. We will of course produce documents
2 responsive to a request for production of documents.

3 BY MS. LARKINS:

4 Q. Okay. Mr. Artiano, are you in agreement that
5 you did not bring today documents that were date stamped
6 with a simple 5 without a zero in front of it?

7 MR. SHINOFF: The document speaks for itself.

8 I'm going to object. I'm going to instruct the witness
9 not to respond.

10 BY MS. LARKINS:

11 Q. If my statements about your law firm are false,
12 then why are you so afraid of discovery?

13 MR. SHINOFF: Again, the objection is that the
14 question is argumentative; and it is vexatious in nature.
15 And I'm going to instruct him not to respond.

16 BY MS. LARKINS:

17 Q. Okay. Uhm. Mr. Artiano, when I asked you,
18 uhm, what should people who come to my website know about
19 me that they don't know from the website, you said that

20 the statements are false; that's what they should know.

21 But that is not something about me. What should they
22 know about me that is not on the website?

23 A. I don't know what they could possibly learn
24 about you through the website.

25 Q. How many -- approximately how many pages of the

26

1 website have you read, Mr. Artiano?

2 A. I have no idea. I don't think that the website
3 is actually paginated.

4 Q. No. But just in your head, you could count,
5 like you would know if you had read one page or a hundred
6 pages.

7 A. I know that I have looked at the pages that we
8 have produced today.

9 Q. Okay. Do you know that, on the website, I talk
10 about -- I tell the story of how I was arrested?

11 A. (Witness shook head from side to side.)

12 Q. You didn't know that?

13 A. I have no idea whether or not you have been
14 arrested. It wouldn't surprise me, but I have no idea.

15 Q. What would you expect me to be arrested for,
16 Mr. Artiano?

17 A. I have --

18 MR. SHINOFF: I'm going to object that the
19 question calls for speculation. I'm going to instruct
20 him not to answer.

21 BY MS. LARKINS:

22 Q. Well, you said it wouldn't surprise you. You
23 said it wouldn't surprise you that I had been arrested.
24 So I was just wondering what sort of arrest you were
25 expecting to have occurred?

1 MR. SHINOFF: Go ahead. You can answer that.

2 THE WITNESS: I have no idea.

3 BY MS. LARKINS:

4 Q. But you just kind of, perhaps you'd like the
5 idea of me being arrested, and maybe you just created a
6 fantasy about it?

7 MR. SHINOFF: I'm going to object that the
8 question is argumentative. Don't respond to that,
9 please.

10 BY MS. LARKINS:

11 Q. Okay. Uhm. Did you know that, on my website,
12 I have a detailed explanation of my administrative
13 hearing?

14 A. Do I know?

15 Q. Yes.

16 A. I seem to recall that there was some
17 information concerning an administrative hearing.

18 Q. Okay. Do you know that, on my website, there
19 is -- I have written a lot about the school I taught at?

20 A. I don't really recall that. What I was looking
21 at were statements concerning my law firm.

22 Q. Uhm.

23 A. Whatever else you may have written about was of
24 no concern to me.

25 Q. Well, you seem to have expressed today a

1 concern that people know more about me than what is on my
2 website.

3 MR. SHINOFF: That's not a question.

4 MS. LARKINS: But we can talk about that in
5 another forum.

6 MR. SHINOFF: Is that a threat or is that a
7 question?

8 MS. LARKINS: You guys filed this lawsuit, not
9 me. We don't have to talk about everything in the
10 deposition. We can talk about it at trial, in motions,
11 in hearings, all kinds of other places. We don't have to
12 talk about it now.

13 BY MS. LARKINS:

14 Q. Okay. You said that you thought that people
15 should do due diligence when they -- let me see.

16 You seem to be upset that the prospective
17 lawyer had to check around after seeing my website. Am I
18 correct in that perception, that you were upset that he
19 had to check around?

20 A. As you have stated it, you are incorrect, yes.

21 Q. Could you explain to me exactly how you feel
22 about the lawyers, the prospective lawyers having to

23 check around?

24 A. What I had said was that it's very unfortunate

25 that someone would have to investigate statements, which

29

1 you have made on your website, which are false,
2 concerning unethical behavior, comments impugning the
3 reputation and character of the law firm and individual
4 lawyers in the law firm.

5 Q. Okay. About how much of your law firm's work
6 is work for public entities?

7 A. Uhm. I'm not sure that it has ever been broken
8 down in percentages. My best estimate would probably be
9 about 40 percent.

10 Q. Okay. How much of Mr. Shinoff's work is for
11 public entities?

12 A. I don't know.

13 Q. All right. When Mr. Shinoff is working for a
14 public entity, do you believe that his actions become a
15 matter of public interest?

16 A. If you are asking whether I think Mr. Shinoff

17 is a public figure, my answer is no.

18 Q. Does Mr. Shinoff frequently speak to the press?

19 A. You'd have to ask Mr. Shinoff that. I

20 certainly know that he has spoken to the press, but you

21 can certainly ask. You certainly have to ask him how

22 frequently.

23 Q. Mr. Artiano, you seem to be very certain that

24 he's not a public figure; and, yet, you are not certain

25 whether he frequently speaks to the press.

1 A. Is that a question, ma'am?

2 Q. Well, I guess I'm just talking to myself here,

3 really. I shouldn't be just mentioning that. Uhm.

4 Okay. I'm just trying to understand your position here.

5 Let me put it this way: Does Mr. -- is

6 Mr. --

7 Do you read the newspaper?

8 A. I read many newspapers.

9 Q. Do you read the North County Times?

10 A. That's not one of the newspapers that I read.

11 Q. How about the San Diego Union?

12 A. I read the San Diego Union.

13 Q. Okay. Has anybody ever talked to you about

14 articles about Mr. Shinoff and other lawyers in your firm

15 that have been running in the North County Times over the

16 last, well, years, many years?

17 A. Probably not about the articles themselves;

18 although, there may have been discussions about cases,

19 which were prompted by articles.

20 Q. Or articles that were prompted by cases?

21 A. I'm sorry?

22 Q. Or do you really mean articles that were

23 prompted by cases?

24 A. No, discussions of cases or inquiries about

25 cases, which were prompted by individuals reading the

1 articles.

2 Q. A case would be prompted by -- oh, you mean a

3 discussion was prompted by someone reading the article?

4 A. Yes.

5 Q. Okay. Have you been following the Mira Costa
6 scandal?

7 A. I have not.

8 Q. You have not followed the Mira Costa scandal?

9 A. No.

10 Q. But you did see some articles about it in the
11 Union Tribune?

12 A. I do recall, there were some articles about it,
13 yes.

14 Q. Is the Union Tribune more careful of your ego
15 than the North County Times?

16 A. I have no --

17 MR. SHINOFF: I'm going to object that the
18 question is vague and argumentative. Don't answer that
19 question.

20 THE WITNESS: Not to mention that I have no
21 idea what that question meant.

22 BY MS. LARKINS:

23 Q. Does the North -- okay. By the way, who was
24 the attorney that checked around before he joined your
25 firm?

1 A. B.C. Eziolu.

2 Q. Could you spell that?

3 A. I believe it is spelled E-z-i-o-l-u, but I
4 could be mistaken on that.

5 Q. Okay. Okay. Now, do you know of anyone other
6 than this one individual, B.C. Eziolu, who had doubts
7 about your firm as a result of my website?

8 A. I know that I had an inquiry from one lawyer
9 about the contents of your law firm. His name is Bob
10 Gile, G-i-l-e.

11 I know there was at least one other client,
12 whom I had known and had a relationship with for quite
13 sometime, that asked me about the website, who was this
14 person, why was she writing these things. And I
15 certainly assume again that any prospective client in
16 doing their due diligence will try to learn what they can
17 about the law firm.

18 For instance, when we respond to a request for
19 a proposal, and our firm is being considered along with

20 many other firms, the decision-makers, maybe an
21 individual or board members of a public entity will
22 likely do their due diligence. And even if they have no
23 reason to believe that the statements on your website are
24 true, it may still cause concern on their part.

25 Q. Do you believe that the public has a right to

1 know about public entity attorneys?

2 MR. SHINOFF: I'm going to object that the
3 question is vague and ambiguous. If you understand the
4 question, go ahead.

5 THE WITNESS: I'm not really sure what you are
6 asking.

7 BY MS. LARKINS:

8 Q. Let me rephrase it. Should the tactics of
9 public entity attorneys be protected from public view?

10 MR. SHINOFF: I'm going to object that the
11 question is vague and ambiguous in terms of the term
12 ambiguous -- in terms of the phrase tactics; and
13 protected from public view is also vague. And I'm going

14 to instruct him not to answer.

15 THE WITNESS: I have no idea what you are
16 asking.

17 (EXH. 2 was marked for identification.)

18 BY MS. LARKINS:

19 Q. Okay. I'd like to have a document marked as
20 Exhibit 2. Thank you for taking a look at this document,
21 Mr. Artiano. Does this newspaper article from the North
22 County Times from August 25th, 2006 look familiar to you?

23 A. No.

24 Q. Okay. Uhm. Do you want to -- do you still
25 want to refuse to read things into the record? Would you

1 rather I do it in the form of a question?

2 MR. SHINOFF: Please do it in the form of a
3 question.

4 BY MS. LARKINS:

5 Q. Okay. Uhm. In this newspaper article, would
6 you look at paragraph five, and would you tell me if I

7 read this correctly. It says: An e-mail from the Mira
8 Costa public information office Friday stated that
9 Dr. Richart, or I guess her name is Richart or something
10 like that. Let me start over.

11 "An e-mail from the Mira Costa public
12 information office Friday stated that Dr. Richart was
13 informed this morning by college attorney Daniel Shinoff
14 that the vice president of instructional services would
15 be on leave until further notice."

16 You agree that that's what it says?

17 A. That's what it says, yes.

18 Q. Thank you. When Mr. Shinoff is telling the
19 president of a college what to do, would you say that he
20 becomes a public figure at that time?

21 MR. SHINOFF: I'm going to object that the
22 question is vague and argumentative.

23 THE WITNESS: Would I say that he becomes a
24 public figure?

25 BY MS. LARKINS:

1 Q. Yes.

2 A. No.

3 Q. Oh, I should have mentioned that it is a public
4 college. When Mr. Shinoff instructs the president of a
5 public college of an important personnel decision, is he
6 a public figure?

7 A. No, ma'am.

8 Q. I'd like you to look at paragraph 10. It says:
9 "'On the advice of our attorneys, we really can't say
10 anything beyond the memo you got from the public
11 information office,' said Fernandez."

12 Is that true? Does that say -- paragraph 10
13 say that?

14 A. You have read it correctly.

15 Q. Okay. Uhm. Does your firm believe that
16 information about how personnel decisions are made by
17 public entities should be kept from the press?

18 MR. SHINOFF: I'm going to object that the
19 question is vague and ambiguous and overly broad. If you
20 understand the question.

21 THE WITNESS: I have no idea what you are
22 asking.

23 BY MS. LARKINS:

24 Q. Does your law firm believe that the public
25 should be kept from knowing how personnel decisions are

36

1 made by public entities?

2 A. I don't know if I can speak for the law firm as
3 a whole; but I can tell you this, that anything having to
4 do with the attorney-client relationship and the
5 decision-making process, which involves the
6 attorney-client relationship, is privileged information;
7 and no one other than the parties have a right to know
8 about that information.

9 Q. Do you think that your firm uses
10 attorney-client privilege to hide information from the
11 public that the public has a right to know?

12 A. I know they don't.

13 Q. Are you aware that Mira Costa College paid
14 approximately \$3 million for an investigation conducted
15 by Mr. Shinoff?

16 A. I have no idea about amounts paid to afford an

17 investigation, nor do I have any knowledge that

18 Mr. Shinoff conducted an investigation.

19 Q. That was in the Union Tribune.

20 MR. SHINOFF: It is not a question.

21 THE WITNESS: I know. You to have ask

22 questions.

23 MS. LARKINS: I know. I'm not a lawyer. So I

24 know I might not do this right.

25 THE WITNESS: I'm not here to have my time

1 wasted.

2 BY MS. LARKINS:

3 Q. Someone who is not a lawyer is a waste of time,

4 is that what you are saying?

5 MR. SHINOFF: Don't respond to the

6 argumentative nature of that question.

7 MS. LARKINS: Okay. Actually, you weren't

8 responding to a question there. Move to strike

9 Mr. Artiano's last statement.

10 I need to take a break, about 10 minutes.

11 MR. SHINOFF: Okay. Very good.

12 THE VIDEOTAPE TECHNICIAN: Off the record at
13 11:18 a.m.

14 (Recess.)

15 THE VIDEOTAPE TECHNICIAN: We are back on the
16 record at 11:27 a.m.

17 BY MS. LARKINS:

18 Q. Mr. Artiano, what members of your firm made the
19 decision to sue me for defamation?

20 A. It wasn't a matter of what members of the firm
21 made a decision. I made a decision, certainly, that
22 unless you did the right thing by correcting the
23 mistake --

24 Actually, I shouldn't call it a mistake.

25 Q. No, you shouldn't.

1 A. -- of the intentional misstatements you placed
2 in your website, if you had removed that, that would have
3 obviated the need for a lawsuit. And after I gave you

4 that opportunity to do that and you refused to do that, I
5 made the decision to go ahead and file suit.

6 Q. Did you do any investigation to find out if the
7 statements on my website were true?

8 A. I didn't have to do any investigation, because
9 I knew that the allegations in your -- that are posted on
10 your website are not true.

11 Q. How closely do you follow Mr. Shinoff's actions
12 in his work?

13 A. I don't follow his work. I have known
14 Mr. Shinoff for approximately 30 years; and I know that
15 he is an extremely ethical, diligent, excellent attorney.

16 I can also speak for myself. In one of your
17 websites, one of your website postings, it talks about
18 Stutz' partner, Ray Artiano, violating California law in
19 case after case; and I know that not to be true.

20 Moreover, I know that you didn't have any
21 involvement with me, knew nothing about any of the cases
22 that I handled, but yet you chose to make an
23 intentionally defamatory comment.

24 Q. I noticed that you read from a document just
25 now. Would you be willing to put that document into the

1 record as Exhibit 3.

2 A. You want to make a copy of it?

3 Q. Yes.

4 A. That would be fine.

5 You'll make a copy of this?

6 THE REPORTER: Yes.

7 (EXH. 3 was marked for identification.)

8 BY MS. LARKINS:

9 Q. Could I take a peak at that just to make sure
10 he didn't take something out of context.

11 Did you start your quote in the middle of a
12 sentence, Mr. Artiano?

13 A. I don't know that I started a quote anywhere.

14 Q. When you -- when you read from the document,
15 Exhibit Number 3, did you start your quote in the middle
16 of a sentence?

17 A. As I said, I don't know that I quoted anywhere.

18 What I said was that you have claimed that Sutz' partner,
19 Ray Artiano, violated California law in case after case.

20 Q. Okay.

21 A. You have also claimed that Daniel Shinoff,
22 Jeffrey Morris and Kelly Angell have violated California
23 law in case after case.

24 Q. When you first became aware of this
25 accusation --

40

1 A. Which accusation? That I violated California
2 law in case after case?

3 Q. This -- okay. Let's just read this sentence
4 into the record, just so we know what we are talking
5 about. Would you like to read it?

6 A. Sure. I will be happy to.

7 Q. That first paragraph there.

8 A. "Get out of jail free card? The lawyers
9 provided by SDCOE Joint Powers Authority to Chula Vista
10 Elementary School District, Daniel Shinoff, Jeffrey
11 Morris, and Kelly Angell, as well as Stutz' partner, Ray
12 Artiano, violated California law in case after case."

13 Q. Thank you. Uhm. When you first saw that

14 charge on my website, did it occur to you to do any
15 investigation at all into Daniel Shinoff or, well, you
16 say you have known Daniel Shinoff for 30 years, and you
17 wouldn't question him.

18 But how about Kelly Angell, did you do any
19 investigating into Kelly Angel's actions?

20 A. Of course not.

21 Q. May I ask why?

22 A. Because there was no need for me to do that,
23 because I would know if anybody in my law firm had
24 violated California law --

25 Q. How would you know that?

1 A. -- in case after case. We would be notified by
2 the state bar. We would be notified by the courts.

3 Q. Isn't it true that the state bar does not take
4 complaints from opposing clients or attorneys?

5 A. No, it is not true.

6 Q. Well, that's good news. I was under the
7 impression that they did. Uhm. It seems to me that you

8 filed a lawsuit without making any effort at all to find
9 out if the allegations on my website are true and that
10 you have engaged in malicious prosecution.

11 A. Is that a question, ma'am?

12 Q. No. No. I flubbed up again.

13 Did Bob Gallagher ever discuss my case with
14 you?

15 A. No, Bob Gallagher never discussed any of your
16 cases with me.

17 Q. When I sent a complaint to your law firm in, it
18 was either December 2003 or early 2004, how was my
19 complaint handled?

20 A. I have no idea. If I saw a complaint that you
21 filed or that you sent, I have no recollection of that.

22 Q. What would have happened if you saw a
23 complaint?

24 A. It would depend on what the complaint said.

25 Q. Well, what if it said that Daniel Shinoff was

1 violating the law?

2 A. It would depend on how specific the complaint
3 was.

4 Q. What if it says that he was obstructing justice
5 by trying to intimidate witnesses?

6 A. Again, it would depend on what the complaint
7 said or what the letter said.

8 Q. If someone complained to the firm that Daniel
9 Shinoff was violating the law and the firm protected him,
10 is not the firm also guilty of his wrongdoing?

11 MR. SHINOFF: Don't answer that question.

12 THE WITNESS: That question is nonsensical, as
13 well.

14 BY MS. LARKINS:

15 Q. Okay. Let me try again. Let's not use Dan
16 Shinoff's name. Let's keep this hypothetical. If a
17 lawyer in your firm violates the law in case after case
18 and someone complains to the firm about that lawyer's
19 actions, aren't you aiding and abetting the wrongdoing by
20 failing to investigate, and by not just failing to
21 investigate, but by actively attacking the complainer?

22 MR. SHINOFF: I'm going to object that the
23 question is vague and ambiguous. It is an incomplete

24 hypothetical, and it calls for speculation.

25 BY MS. LARKINS:

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1 Q. Can you answer it?

2 A. It is incapable of being answered.

3 Q. Well, let me try again. If one of your lawyers
4 in your firm obstructs justice and the firm is informed
5 about it and yet continues to support that lawyer by
6 shielding him from discovery, not producing documents,
7 not producing witnesses, filing malicious lawsuits
8 against the complainer, is not that firm guilty of the
9 same wrongdoing?

10 MR. SHINOFF: I'm going to object that the
11 question is vague and ambiguous. It is an incomplete
12 hypothetical and calls for speculation.

13 BY MS. LARKINS:

14 Q. You still can't?

15 A. Again, ma'am, you have to be much more specific
16 than that.

17 MS. LARKINS: Okay. Uhm. I need to take a

18 break.

19 THE VIDEOTAPE TECHNICIAN: Are we going off the
20 record?

21 MR. SHINOFF: No.

22 THE WITNESS: No.

23 MR. SHINOFF: We just took a break.

24 MS. LARKINS: Uhm, I need a -- well, I really
25 need this copied, but I suppose we could do it without

1 copying it.

2 (EXH. 4 was marked for identification.)

3 BY MS. LARKINS:

4 Q. Okay. Yes. I have an exhibit I would like to
5 mark as exhibit -- I have an exhibit I would like to mark
6 as Exhibit 4. I'm going to pass it to you here.

7 Exhibit 4, Mr. Artiano, does this document look
8 familiar to you? Is it humorous to you, Mr. Artiano?

9 A. I'm sorry?

10 Q. Is this a matter of humor to you? You have a

11 huge smile on your face or you did a second ago.

12 MR. SHINOFF: Don't respond to that question.

13 MS. LARKINS: Okay.

14 THE WITNESS: The document is not familiar to
15 me.

16 BY MS. LARKINS:

17 Q. When a complaint comes into your office, who
18 looks at it? A complaint about one of your lawyers comes
19 into the Stutz office, who looks at it?

20 MR. SHINOFF: I'm going to object that the
21 question is vague and ambiguous and overly broad.

22 THE WITNESS: It would certainly depend upon
23 who brought the complaint. In other words, you know, if
24 a judge was complaining about something serious, I'd
25 certainly expect to be involved. Certainly if the state

1 bar brought a concern, I would expect to be involved. In
2 all of our years of practice, that's never happened.

3 If an opposing attorney brought a complaint
4 against a lawyer, it would depend upon whether or not

5 that opposing attorney brought it directly to my
6 attention or it was brought to somebody else. So --

7 BY MS. LARKINS:

8 Q. Well, how about if it were addressed to the
9 firm itself?

10 A. Just a blanket letter to the firm?

11 Q. Yes, just to Stutz law firm.

12 A. It would depend on where the mail was routed, I
13 suppose.

14 Q. So it is all up to the person in the mail room?

15 A. I would suspect that they would route it either
16 to the administrative manager --

17 Q. Isn't that you?

18 A. No.

19 Q. Who is he?

20 A. Who is she? Right now, it is Rita Hee.

21 Q. And how long has she --

22 A. Or Rita. Actually, her last name isn't Hee
23 anymore. She's been our administrative manager probably
24 for two, two to three years.

25 Q. And before that?

1 A. Before that, a woman by the name of Diana
2 Clark, I believe.

3 Q. And how long did she work for your firm?

4 A. A few years.

5 Q. Would that be three or more?

6 A. Not necessarily.

7 Q. What does that mean, a few?

8 A. To the best of my recollection, about two.

9 Q. About two. And how about before that?

10 A. We had the same administrative manager for
11 probably 20 years or so, and her name was Shari Randall.

12 Q. How do you spell the Shari?

13 A. S-h-a-r-i.

14 Q. I'm glad I asked. And Randall with two Ls?

15 A. I believe so.

16 Q. Okay. You know, I think maybe I owe you an
17 apology, Mr. Artiano, for the big smile, because now that
18 I look at Exhibit Number 4, I see something funny. Were
19 you smiling at the spelling of the name?

20 A. Ma'am, I wasn't. First of all, I wasn't

21 smiling.

22 Q. You weren't smiling?

23 A. And I have no idea what you are talking about.

24 Q. Is that your testimony, that you weren't

25 smiling?

47

1 A. Yes, ma'am.

2 Q. Oh, that is great. That's what the video
3 camera is for. Did you think it was kind of humorous in
4 a way, the way that my name is spelled at the top of that
5 document?

6 A. Frankly, I didn't notice the way your name was
7 spelled.

8 Q. Oh, well, then we can't let you off the hook on
9 that, for the smiling.

10 A. Is that a question?

11 Q. No, that is a statement.

12 MR. SHINOFF: I'm going to ask that you cease
13 with the personal comments, please.

14 BY MS. LARKINS:

15 Q. Okay. And do you also want me to stop saying
16 things without any consideration?

17 And, by the way, how did you know that I'm
18 prone to fantasies?

19 MR. SHINOFF: I'm not going to respond to that
20 question.

21 MS. LARKINS: Well, if you say something like
22 that again, I might ask you a similar question.

23 MR. SHINOFF: Is that threat?

24 MS. LARKINS: It is a promise. If you make
25 disparaging personal comments such as I know that you are

1 prone to fantasies, I might ask you if that's what you
2 are talking about, when you ask me not to speak in a
3 certain way.

4 MR. SHINOFF: Well, that is governed by the
5 Code of Civil Procedure.

6 MS. LARKINS: Really? Whether or not you can
7 sit there and say that I know you are prone to fantasies,

8 that is governed by the Code of Civil Procedure?

9 MR. SHINOFF: The way you are asking questions
10 is governed by the Code of Civil Procedure.

11 MS. LARKINS: But your comments are not?

12 MR. SHINOFF: Please ask your next question.

13 MS. LARKINS: Well, here I am, an in pro per
14 attorney, and you won't even give me answers. I mean,
15 well, an in pro per defendant, not an in pro per
16 attorney.

17 BY MS. LARKINS:

18 Q. Okay. I'm sorry. Can I look at Exhibit 1
19 again. It is the deposition notice. Okay. On Number 4,
20 did you bring any documents related to your investigation
21 into whether the facts on my website might be true?

22 A. There are no documents, because there is no
23 need to determine whether or not the statements on your
24 website were true, because I knew them to be false.

25 Q. Oh, yeah, on this last one, I'm glad I came

2 policies with regard to complaints about unethical or
3 illegal behavior on the part of your attorneys?

4 A. There are no written policies, nor have we ever
5 had any complaints about unethical or illegal behavior on
6 the part of any attorney in my firm other than from you.

7 Q. That's very interesting that you would say
8 that. Did Bob Gallagher leave your firm because your
9 firm was obstructing jus- -- was supporting Daniel
10 Shinoff's and Kelly Angell's obstruction of justice?

11 A. No, that is not why Bob Gallagher left our
12 firm.

13 Q. Why did he leave?

14 A. You are not entitled to that information. That
15 is protected by Mr. Gallagher's privacy rights.

16 Q. Would you -- were you sorry to see him leave?

17 MR. SHINOFF: I'm going to object that that is
18 irrelevant.

19 THE WITNESS: Again, I'm not going to engage in
20 this line of questioning, because you seek to invade the
21 privacy rights of an employee of my firm, an ex-employee,
22 rather.

23 BY MS. LARKINS:

24 Q. I'm not sure that you have a privacy right to

25 cover up obstruction of justice.

50

1 A. If you continue making statements such as the
2 one -- such as the one that you just made, the deposition
3 will conclude rather quickly.

4 Q. Well, that's too bad, because you are trying
5 to -- you are suing me for saying that your firm
6 obstructed justice; and yet, you claim that you have
7 never seen that Exhibit Number 4, which was part of a
8 complaint I sent to your law firm just about weeks before
9 Bob Gallagher left the firm. I -- you are the plaintiff
10 here. You are the one that wanted to talk about this in
11 court, about how you don't obstruct justice.

12 MR. SHINOFF: You misunderstand the
13 allegations.

14 MS. LARKINS: Okay. Let's hear it. I think
15 defamation is a heinous action; and I think people who do
16 it intentionally are heinous. If I have said anything on
17 my website about your law firm or you as an individual,

18 Mr. Artiano, or you as an individual, Mr. Shinoff, I want
19 to apologize. I want to reimburse you for any losses
20 financially it has cost you. I want to take down the
21 website, put a big apology in its place. If all this is,
22 as Mr. Shinoff seems to be saying, a fantasy on my part,
23 please stay and explain it to me, how I'm wrong.

24 Your lawyer, Mr. Shinoff, and your other
25 lawyer, Kelly Angell, obstructed justice in an

1 unconscionable fashion in my case and in several other
2 cases. Intimidation seems to be a favorite tactic.

3 THE WITNESS: Please ask a question.

4 BY MS. LARKINS:

5 Q. Okay. If your law firm is so great, why did
6 Bob Gallagher leave?

7 A. I just explained to you that I would never talk
8 about an employee, who has departed the firm. I can tell
9 you this, however: It had absolutely nothing at all to
10 do with you.

11 Q. Uhm. Do you always refer to Bob Gallagher as

12 an employee of the firm or do you sometimes refer to him

13 as a founder, a partner?

14 A. He was a founder of the firm. He was a

15 partner, actually, a shareholder. In law firms, we

16 generally refer to partners, however.

17 Q. He started the firm without you, correct?

18 A. No.

19 Q. You were there at the very beginning?

20 A. Yes.

21 Q. How many lawyers were in the firm when you

22 founded it?

23 A. Three of us.

24 Q. Okay. But now you refer to him as an employee?

25 A. An ex-employee, yes. I am an employee of the

1 firm, as well.

2 Q. Do you sort of -- are you uncomfortable talking

3 about Bob Gallagher?

4 A. In California, everybody has a constitutional

5 right to privacy. And --

6 Q. Well, that's not what I'm talking about.

7 Really, it struck me when you referred to him as an
8 employee. It seemed like you were trying to diminish his
9 importance.

10 MR. SHINOFF: There is no question pending.

11 THE WITNESS: I know.

12 BY MS. LARKINS:

13 Q. How many lawyers do you know that have founded
14 a firm and then left it?

15 MR. SHINOFF: I'm going to object that the
16 question is irrelevant. Don't respond, please.

17 MS. LARKINS: You're instructing him not to
18 answer?

19 MR. SHINOFF: I am. I don't see how it's
20 calculated to lead to the discovery of relevant evidence.

21 MS. LARKINS: You know, we wouldn't even have
22 to continue with this case. If you just gave me just a
23 little flicker of a doubt about my allegations, I'd take
24 my site down right now. You are just acting so guilty.
25 You are acting like you are covering up.

1 THE WITNESS: Are you going to continue to ask
2 questions or are you going to continue to make speeches?
3 If the latter, as I said before, we are going to end the
4 deposition. I'm not here to listen to you make speeches.

5 MS. LARKINS: I really am a person, who, when
6 I'm wrong, I admit it.

7 THE WITNESS: Okay. That's the end of this
8 deposition.

9 MR. SHINOFF: We'll give you notice of our
10 motion for a protective order. If we could have a copy
11 of the deposition transcript, please.

12 MS. LARKINS: Are you going to attend your
13 deposition, Mr. Shinoff?

14 MR. SHINOFF: No, because I'm concerned that
15 the deposition will go the same way. And I think we need
16 guidance from the court so the court can provide guidance
17 for both parties in terms of the rules that govern the
18 deposition process.

19 MS. LARKINS: Okay.

20 MR. SHINOFF: I'm also going to ask that we be
21 permitted, just so that you know, that we be permitted to

22 have a camera that focuses on you, as well, because I
23 think that your behavior is also intended to intimidate,
24 vex, and annoy the witness, in particular, Mr. Artiano.

25 MS. LARKINS: I certainly do want a camera

1 focused on me, because you are making false allegations,
2 and I want to be protected by the camera. Would you
3 agree to have a camera on you, yourself, Mr. Shinoff?

4 MR. SHINOFF: I have no problem having a camera
5 on me. What's interesting to me --

6 THE VIDEOTAPE TECHNICIAN: Excuse me. Counsel,
7 I just need to find out technically how we are going off
8 the record, because everybody has to agree. You are
9 going off to seek a protective order, go off with that
10 part of the statute?

11 MR. SHINOFF: Yes, we are going to go off to
12 seek a protective order.

13 THE VIDEOTAPE TECHNICIAN: So you want me to go
14 off the tape, and you want Bonnie to stop writing?

15 MR. SHINOFF: No, I don't want the reporter to
16 stop.

17 It is curious to me that you would hold
18 yourself out as a person, who has a great honor for the
19 truth, yet you would deny that you were smirking and
20 smiling at Mr. Artiano throughout the course of your
21 questioning.

22 Are you saying that you weren't doing that,
23 because I believe you when you say that the truth is
24 something that is very important to you and that you find
25 defamation to be heinous? So I take you at your word.

1 MS. LARKINS: I may have smiled a few times. I
2 really -- I don't know. I would like to have the camera,
3 too.

4 MR. SHINOFF: Okay.

5 MS. LARKINS: So I know myself for sure how
6 true or false your allegations are.

7 MR. SHINOFF: Okay. I'm just telling you what
8 I observed. Okay? And I think that the camera would be

9 extremely beneficial.

10 MS. LARKINS: I think so, too. It will protect
11 me from any false allegations.

12 MR. SHINOFF: Are you saying you didn't smile
13 and smirk at Mr. Artiano throughout the course of the
14 deposition?

15 MS. LARKINS: I said that the camera will
16 protect me from any false allegations.

17 MR. SHINOFF: Why is it that you won't answer
18 the question?

19 MS. LARKINS: If you look at the deposition
20 transcript when it comes, you'll see that I said that I
21 may have smiled a few times.

22 MR. SHINOFF: And how many is a few times?

23 MS. LARKINS: I have no idea. I wasn't paying
24 attention to my smiling.

25 MR. SHINOFF: Thank you.

1 THE REPORTER: We are going off the record now.

2 THE VIDEOTAPE TECHNICIAN: Off the record at

3 12:00 p.m.

4 (Deposition adjourned at 12:00 p.m.)

5 I, the undersigned, say that I have read the

6 foregoing deposition and hereby declare under penalty of

7 perjury the foregoing is true and correct.

8 Executed this _____ day of _____, 2007,

9 at _____,

10. (City) (State)

11

12 _____

13 DECLARANT

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1 STATE OF CALIFORNIA)
2 COUNTY OF SAN DIEGO) ss

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4 I, Bonnie Breen, CSR No. 5582, a Certified Shorthand
5 Reporter in and for the County of San Diego, State of
6 California, do hereby certify:

7 That prior to being examined, the witness named in
8 the foregoing deposition was by me duly sworn to testify
9 to the truth, the whole truth, and nothing but the truth.

10 That said deposition was taken before me at the time
11 and place set forth and was taken down by me in shorthand
12 and thereafter reduced to computerized transcription
13 under my direction and supervision; and I hereby certify
14 the foregoing deposition is a full, true and correct
15 transcript of my shorthand notes so taken.

16 I further certify that I am neither counsel for nor
17 related to any party to said action nor in anywise
18 interested in the outcome thereof.

19 IN WITNESS WHEREOF, I have hereunto subscribed my

20 name this _____ day of _____, 2007 at San Diego,
21 California.

22

23

24 BONNIE G. BREEN, CSR NO. 5582

25

